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179
Vol. I

40-2909
Supreme

TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1940

No. 87

MIKHAIL NICHOLAS GORIN, PETITIONER,

vs.

THE UNITED STATES OF AMERICA

No. 88

HAFIS SALICH, PETITIONER,

vs.

THE UNITED STATES OF AMERICA

ON WRITS OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT
OF APPEALS FOR THE NINTH CIRCUIT

PETITION FOR CERTIORARI FILED MAY 11, 1940.

CERTIORARI GRANTED JUNE 8, 1940.

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Nos. 9135, 9136

United States
Circuit Court of Appeals
For the Ninth Circuit.

No. 9135

MIKHAIL NICHOLAS GORIN, Appellant,

vs.

THE UNITED STATES OF AMERICA, Appellee.

No. 9136

HAFIS SALICH, Appellant,

vs.

THE UNITED STATES OF AMERICA, Appellee.

Transcript of Record

In Two Volumes

VOLUME I

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States for the Southern District of California,
Central Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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*Page numbering appearing at the foot of page of original certified
Transcript of Record.

INDICTMENT**No. 13793-RJ****Viol: Title 50, Sections 31, 32 and 34, United States
Code.****In The District Court of the United States in and
for the Southern District of California, Central
Division.**

At a stated term of said Court, begun and holden
at the City of Los Angeles, County of Los Angeles,
within and for the Central Division of the Southern
District of California on the second Monday of
September in the year of our Lord one thousand
nine hundred thirty-eight.

The grand jurors for the United States of Amer-
ica, impaneled and sworn in the Central Division
of the Southern District of California, and inquir-
ing for the Southern District of California, upon
their oath present:

That

HAFIS SALICH,
MIKHAIL NICHOLAS GORIN, and
NATASHA GORIN,

hereinafter called the defendants, whose full and
true names are, and the full and true name of each
of whom is, other than as herein stated, to the grand
jurors unknown, each late of the Central Division
of the Southern District of California, heretofore;
to-wit: on or about the 15th day of September, 1937,
at Los Angeles, County of Los Angeles, state, di-
vision and district aforesaid, and within the juris-

diction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously, for the purpose of obtaining information respecting the national defense with intent and reason to believe that the information to be obtained was to be used to the injury of the United States and to the advantage of a foreign nation, to-wit: the Union of Soviet Socialist Republics did then and there copy, take, make and obtain and attempt and induce, aid, counsel and abet each other and other persons to the grand jurors unknown to copy, take, make and obtain instruments, [2] documents, writings and notes of matters connected with the national defense, to-wit: confidential information, reports, instruments, documents and writings pertaining to and concerning various and numerous individuals under suspicion, observation, surveillance and investigation, belonging and contained in the United States Naval Intelligence files and reports at San Pedro, California, bearing identification Naval Intelligence Report numbers as follows:

435, 439, 465, 466, 469, 472, 477, 478, 479, 480, 482, 487, 489, 495, 503, 504, 505, 507, 514, 519, 522, 525, 528, 529, 530, 532, 534, 535, 536, 541, 546, 551, 552, 554, 555, 548, 547, 540, 556, 557, 558, 559, 560, 565, 570, 665, 666, 833, 841, 849, 854, 859, 861, 889, 897, 967, 1081, 1066, 1088, 1104, 1110, 1116, 1129, 1130, 1132, 1133, 1139, 1145, 1152;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America. [3]

Second Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That Hafis Salich, Mikhail Nicholas Gorin, and Natasha Gorin, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, to-wit: on or about the 15th day of September, 1937, at Los Angeles, County of Los Angeles, state, division and district aforesaid, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully and feloniously, with intent and reason to believe that it was to be used to the injury of the United States and to the advantage of a foreign nation, to-wit: the Union of Soviet Socialist Republics, communicate, deliver and transmit and attempt to communicate, deliver and transmit, and aid, assist and induce each other and other persons to the grand jurors unknown, to communicate, deliver and transmit to a representative, officer, agent, employee, subject and citizen of the said Union of Soviet Socialist Republics, to-wit: the said Mikhail Nicholas Gorin and other persons to the grand jurors unknown, various documents, writings, notes, instruments and information relating to the national defense, to-wit: the confidential reports of the investigators of said United States Naval Intelligence located in the office of the United

States Naval Intelligence at San Pedro, California, and pertaining to and concerning various and numerous individuals who have been and are under suspicion, observation, surveillance and investigation by said Naval Intelligence, and bearing identification Naval Intelligence Report numbers as follows:

435, 439, 465, 466, 469, 472, 477, 478, 479, 480, 482, 487, 489, 495, 503, 504, 505, 507, 514, 519, 522, 525, 528, 529, 530, 532, 534, 535, 536, 541, 546, 551, 552, 554, 555, 548, 547, 540, 556, 557, 558, 559, 560, 565, 570, 665, 666, 833, 841, 849, 854, 859, [4] 861, 889, 897, 967, 1081, 1066, 1088, 1104, 1110, 1116, 1129, 1130, 1132, 1139, 1145, 1152, 1133;

Contrary to the form of the statute in such case made and provided and against the peace and dignity of the United States of America, [5]

Third Count.

And the grand jurors aforesaid, upon their oath aforesaid, do further present:

That Hafis Salich, Mikhail Nicholas Gorin, and Natasha Gorin, hereinafter called the defendants, whose full and true names are, and the full and true name of each of whom is, other than as herein stated, to the grand jurors unknown, each late of the Central Division of the Southern District of California, heretofore, -to-wit: prior to the dates of the commission of the overt acts hereinafter set forth, and continuously thereafter down to and including the date of filing of this indictment, in the County of Los Angeles, state, division and district afore-

said, and within the jurisdiction of the United States and of this Honorable Court, did knowingly, wilfully, unlawfully, corruptly and feloniously conspire, combine, confederate and agree together and with each other and with divers other persons whose names are to the grand jurors unknown, to commit an offense against the United States of America by knowingly, wilfully and unlawfully, with intent and reason to believe that it was to be used to the injury of the United States and to the advantage of a foreign nation, to-wit: the Union of Soviet Socialist Republics, communicate, deliver, transmit and attempt to communicate, deliver and transmit to a foreign government, to-wit: Union of Soviet Socialist Republics, and to a representative, officer, agent, employee, subject and citizen thereof, to-wit: the said Mikhail Nicholas Gorin, and to other persons to the grand jurors unknown, directly and indirectly, documents, writings, plans, notes, instruments and information relating to the national defense, to-wit: confidential reports, instruments, documents and writings contained in the files of the United States Naval Intelligence at San Pedro, California;

And the grand jurors aforesaid, upon their oath aforesaid, do further charge and present that at the hereinafter stated times, in pursuance of, and in furtherance of, in execution of, and for the purpose [6] of carrying out and to effect the object, design, and purposes of said conspiracy, combination, confederation and agreement aforesaid, the hereinafter named defendants did commit the following overt acts at the hereinafter stated places:

1. On or about August 15, 1936, defendant Hafis Salich was employed as a member of the United States Naval Intelligence at San Pedro, California;
2. On or about September 15, 1937, defendant Mikhail Nicholas Gorin called at the house of Hafis Salich at number 3333 West Fourth Street, Los Angeles, California;
3. In the Fall of 1935, defendant Hafis Salich was introduced to Nicholai Aliavdin, a Vice Consul for the Union of Soviet Socialist Republics, by O. R. Griffin, at Berkeley, California;
4. In December, 1937, defendant Mikhail Nicholas Gorin met the defendant Hafis Salich and produced a letter of introduction from Nicholai Aliavdin to defendant Hafis Salich;
5. In February 1938, defendant Mikhail Nicholas Gorin advanced to defendant Hafis Salich the sum of Two Hundred Dollars (\$200.00);
6. In February or March, 1938, defendant Hafis Salich and H. L. Stanley were working together for the United States Naval Intelligence and defendant Hafis Salich told H. L. Stanley that he had been out to dinner with a Russian friend of Hafis Salich by the name of Gorin and he (Gorin) had given Hafis Salich a proposition to turn over to Gorin certain information which was then being developed by Hafis Salich and H. L. Stanley in their investigations;
7. In February or March, 1938, defendant Hafis Salich proposed to H. L. Stanley that Hafis Salich and H. L. Stanley turn over to defendant Mikhail

Nicholas Gorin certain confidential information and reports and that Mikhail Nicholas Gorin would pay them the sum of \$30.00 or \$40.00 per month for the same; [7]

8. On or about September 30, 1938, the defendant Natasha Gorin had in her possession information and reports concerning one Harry M. Shively obtained from the files and reports of the office of the Naval Intelligence at San Pedro, California;

9. In July 1937, defendant Hafis Salich called upon and talked to defendant Mikhail Nicholas Gorin at his place of residence at 451 South Ardmore Street, Los Angeles, California;

10. In December 1938, defendant Mikhail Nicholas Gorin paid to defendant Hafis Salich the sum of \$200.00 in currency;

Contrary to the form of the statute in such case, made and provided and against the peace and dignity of the United States of America.

BEN HARRISON,

United States Attorney,
LEO V. SILVERSTEIN,
Assistant United States
Attorney. [8]

A true bill.

W. C. BINFORD.

Bail, \$1000—Natasha Gorin

25,000—ea. Salich & M. Gorin

[Endorsed]: Filed Jan. 11, 1939. [9]

[Title of District Court and Cause.]

A DEMURRER AND MOTION TO QUASH
INDICTMENT

To the Honorable United States District Court
in and for the Southern District of California,
Central Division:

Now comes the defendant, Hafis Salich, by his attorney, Willard J. Stone, Jr., severing himself from his co-defendant, and for himself alone, and does make and present this, his demurrer and exceptions to the said indictment and motion to quash the same, and says that the indictment is insufficient in law and should be quashed and for grounds respectfully shows the Court:

(1) The said indictment and each count thereof, fails to state facts sufficient to constitute an offense against the United States.

(2) The indictment and each count, thereof, fails to set forth the facts which constitute the alleged offense so distinctly as to advise the accused of the charge which they have to meet and give them a fair opportunity to prepare their defense.

(3) The indictment and each count thereof, is indefinite, uncertain, and insufficient in law, in that it does not state or specify:

(a) What instruments, or documents, or writings, or notes the said defendants are alleged to have copied, or taken, or made, or obtained, or attempted, or induced, or aided, or counselled, or abetted each other, to copy, etc.?

- (b) What documents, or writings, or notes, or instruments, or information the said defendants are alleged to have [10] communicated, or delivered, or transmitted, or attempted to communicate, or deliver, or transmit, or aid, or assist, or induce each other to communicate, etc.?
- (c) Facts showing that the instruments and information therein referred to are so immediately and directly connected with the defense of the United States by its armed forces that the disclosure of said instruments or information would immediately and directly endanger that defense.
- (d) Facts showing that the disclosure of the information and instruments therein referred to would be to the military injury and disadvantage of the United States in relation to the Union of Soviet Socialist Republics, and to the military advantage of the Union of Soviet Socialist Republics in relation to the United States.

Wherefore, for each and all of the foregoing objections, exceptions, and demurrers, this defendant moves the Court to sustain the same, and quash and set aside the indictment cited against them herein, and that they be permitted to go hence without day.

WILLARD J. STONE, JR.,
Attorney for Defendant,
Hafis Salich.

I hereby certify that the above demurrer and motion to quash the indictment is filed in good faith and not for the purpose of delay, and that in

my opinion, the same is good and meritorious in law.

WILLARD J. STONE, JR.,
Attorney for Defendant,
Hafis Stalich.

[Endorsed]: Filed Jan. 14, 1939. [11]

[Title of District Court and Cause.]

DEMURRER AND MOTION ON BEHALF OF
DEFENDANTS MIKHAIL NICHOLAS GOR-
IN AND NATASHA GORIN, TO QUASH
INDICTMENT RETURNED JANUARY 11,
1939.

Now come the defendants Mikhail Nicholas Gorin and Natasha Gorin, and separately and severally demur to that certain indictment heretofore returned against them on the 11th day of January, 1939, and move to quash the same, and each and every count thereof, upon the following grounds and for the following reasons:

I.

Demurrer To First Count.

1. That count one of said indictment does not state facts sufficient to constitute an offense against said defendants, or either of them.
2. That count one of said indictment does not state facts sufficient to constitute an offense for the violation of Section 31, Title 18, U.S.C.A.

3. That count one of said indictment is so vague, indefinite and uncertain in its averment, "for the purpose of [12] obtaining information respecting the national defense," as not to inform said defendants, or either of them, as to the nature and cause of the accusation.

4. That count one of said indictment is so vague, indefinite and uncertain in its averment, "confidential information, reports, instruments, documents and writings pertaining to and concerning various and numerous individuals under suspicion, observation, surveillance and investigation, belonging and contained in the United States Naval Intelligence files and reports at San Pedro, California, bearing identification Naval Intelligence Report numbers as follows: 435 . . ." etc., as not to inform said defendants, or either of them precisely what information or reports or instruments or documents or writings are referred to therein, or the nature or character thereof, and also as not to inform said defendants or either of them, as to the nature and cause of the accusation.

5. That count one of said indictment is so vague, indefinite and uncertain in its averment, that it cannot be ascertained in what manner the information, reports, instruments, documents and writings therein referred to are connected with the national defense.

6. That count one of said indictment is so vague, indefinite and uncertain in its averment, that it cannot be ascertained in what manner or how, in any way, the "confidential information, reports, in-

struments, documents and writings pertaining to and concerning various and numerous individuals under suspicion, observation, surveillance and investigation, belonging and contained in the United States Naval Intelligence files and reports at San Pedro, California," are connected with the national defense. [13]

7. That count one of said indictment is attempted to be based upon a statute so indefinite, vague, uncertain and ambiguous as not to enable said defendants, or either of them, to know what is forbidden by it, and therefore amounts to an attempted delegation by Congress of legislative power to courts and juries to determine what acts should be held to be criminal and punishable under said statute, and that said statute is therefore void and invalid.

8. That count one of said indictment is bad for duplicity, in that the setting up of more than one offense in a single count does not enable said defendants, or either of them, to deal intelligently with the charge, and seriously handicaps them in making their defense, and is likely to prevent them, and each of them, from pleading former acquittal or conviction.

9. That count one of said indictment is vague, indefinite and uncertain, in that there is no definition contained in the indictment or in the statute upon which the indictment is based defining "national defense" as used therein.

10. That count one of said indictment violates the provisions of the Fifth and Sixth Amendments to the United States Constitution.

II.

Demurrer to Second Count.

1. That count two of said indictment does not state facts sufficient to constitute an offense against said defendants or either of them. [14]
2. That count two of said indictment does not state facts sufficient to constitute an offense for the violation of Section 32, Title 18, U.S.C.
3. That count two of said indictment is so vague, indefinite and uncertain in its averment, "various documents, writings, notes, instruments and information relating to the national defense," as not to inform said defendants, or either of them, as to the nature and cause of the accusation.
4. That count two of said indictment is so vague, indefinite and uncertain in its averment, "the confidential reports of the investigators of said United States Naval Intelligence located in the office of the United States Naval Intelligence, at San Pedro, California, and pertaining to and concerning various and numerous individuals who have been and are under suspicion, observation, surveillance and investigation by said Naval Intelligence, and bearing identification Naval Intelligence Report numbers as follows: 435. . . .", etc., as not to inform said defendants, or either of them, precisely what information or writings are referred to therein, or the nature or character thereof, and also as not

to inform said defendants, or either of them, as to the nature and cause of the accusation.

5. That count two of said indictment is so vague, indefinite and uncertain in its averment that it cannot be ascertained in what manner the information, reports, instruments, documents and writings therein referred to are related with the national defense.

6. That count two of said indictment is so vague, indefinite and uncertain in its averment that it cannot be ascer- [15] tained in what manner or how, in any way, "the confidential reports of the investigators of said United States Naval Intelligence located in the office of the United States Naval Intelligence at San Pedro, California, and pertaining to and concerning various and numerous individuals who have been and are under suspicion, observation, surveillance and investigation" are connected with the national defense.

7. That count two of said indictment is attempted to be based upon a statute so indefinite, vague, uncertain and ambiguous as not to enable said defendants, or either of them, to know what is forbidden by it, and therefore amounts to an attempted delegation by Congress of legislative powers to courts and juries to determine what acts should be held criminal and punishable under said statute, and that said statute is therefore void and invalid.

8. That count two of said indictment is bad for duplicity, in that the setting up of more than one

offense in a single count does not enable said defendants, or either of them, to deal intelligently with the charge, and seriously handicaps them in making their defense, and is likely to prevent them, and each of them, from pleading former acquittal or conviction.

9. That count two of said indictment is vague, indefinite and uncertain, in that there is no definition contained in the indictment or in the statute upon which the indictment is based defining "national defense" as used therein.

10. That count two of said indictment violates the provisions of the Fifth and Sixth Amendments to the United States Constitution. [16]

III.

Demurrer To Third Count.

1. That count three of said indictment does not state facts sufficient to constitute an offense against said defendants, or either of them.

2. That count three of said indictment does not state facts sufficient to constitute an offense for the violation of Section 34, Title 18, U.S.C.

3. That count three of said indictment is so vague, indefinite and uncertain in its averment, "documents, writings, plans, notes, instruments and information relating to the national defense", as not to inform said defendants, or either of them, as to the nature and cause of the accusation.

4. That count three of said indictment is so vague, indefinite and uncertain in its averment,

"confidential reports, instruments, documents and writings contained in the files of the United States Naval Intelligence at San Pedro, California", as not to inform said defendants, or either of them, precisely what reports, instruments, documents or writings are referred to therein, or the nature or character thereof, and also as not to inform said defendants, or either of them, as to the nature and cause of the accusation.

5. That count three of said indictment is so vague, indefinite and uncertain in its averment that it cannot be ascertained in what manner the documents, writings, plans, notes, instruments and information therein referred to are related to the national defense. [17]

6. That count three of said indictment is attempted to be based upon a statute so indefinite, vague, uncertain and ambiguous as not to enable said defendants, or either of them, to know what is forbidden by it, and therefore amounts to an attempted delegation by Congress of legislative power to courts and juries to determine what acts should be held to be criminal and punishable under said statute, and that said statute is therefore void and invalid.

7. That count three of said indictment is bad for duplicity, in that the setting up of more than one offense in a single count does not enable said defendants, or either of them, to deal intelligently with the charge, and seriously handicaps them in making their defense, and is likely to prevent them,

and each of them, from pleading former acquittal or conviction.

8. That count three of said indictment is vague, indefinite and uncertain, in that there is no definition contained in the indictment or in the statute upon which the indictment is based defining "national defense" as used therein.

9. That count three of said indictment violates the provisions of the Fifth and Sixth Amendments to the United States Constitution.

Wherefore, said defendants, and each of them, pray for an order sustaining said demurrer, and granting the motion to quash said indictment, and that their bond be exonerated, and that they go hence without day.

PACHT, PELTON, WARNE
& BLACK,

By CLORE WARNE,

Attorneys for defendants

Mikhail Nicholas Gorin and
Natasha Gorin, 510 Union
Bank Building, 325 West
Eighth Street, Los Angeles,
California. [18]

I hereby certify that the foregoing demurrer is taken in good faith, and not for the purposes of delay, and in my opinion, the same is well taken in law.

CLORE WARNE,

Of Pacht, Pelton, Warne &
Black.

[Endorsed]: Filed Jan. 16, 1939. [19]

At a stated term, to wit: The September Term, A. D. 1939, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 16th day of January in the year of our Lord one thousand nine hundred and thirty-nine.

Present:

The Honorable Ralph E. Jenney, District Judge.

[Title of Cause.]

This cause coming on for (1) arraignment and plea; Ben Harrison, U. S. Attorney, and N. W. Neukom, Assistant U. S. Attorney, appearing for the Government; at 10 o'clock A.M., Defendant Hafis Salich only being present, it is ordered that this cause be hereby continued to 2 o'clock P.M.

At 2 o'clock P.M. Court reconvenes herein, and the afore-mentioned counsel for the Government being present, and Williard Stone, Esq., appearing for the Defendant Hafis Salich, and Clore Warne, Esq., appearing for Defendants Mikhail Nicholas Gorin and Natasha Gorin, all of the said defendants being present;

And, this cause also coming on for (2) hearing on demurrer and motion to quash indictment filed by Defendant Salich, and (3) for hearing on demurrer and motion to quash indictment filed by Defendants Mikhail Nicholas Gorin and Natasha Gorin, — It is stipulated and ordered that the

demurrs and motions to quash as to the second indictment are the matters to be presented at this time.

At 2:05 o'clock P.M. Attorney Warne argues to the Court in support of demurrer and motion to quash in behalf of Defendants Mikhail Nicholas Gorin and Natasha Gorin.

At 3 o'clock P.M. Attorney Stone argues to the Court in support of the demurrer and motion to quash in behalf of Defendant Hafis Salich.

At 3:35 o'clock P.M. Court recesses. At 3:45 o'clock P.M. Court reconvenes, and all being present as before, including the defendants.

The Court makes a statement and it is ordered that the demurrs be, and [20] they hereby are, overruled, and that the motions to quash be and they hereby are denied.

It is stipulated and ordered that the bond deposited by defendant M. N. Gorin in Case No. 13,769-RJ may be deemed to be on deposit in this case and for all purposes the defendant be bound by the same conditions as upon the cash bail deposit made upon the indictment in Case No. 13,769-RJ.

It is ordered that the United States Attorney prepare a written order for the signature of the Court, after having same approved by counsel for the said defendant.

Each defendant states his or her name to be as given in the Indictment and each defendant enters

his or her separate plea of not guilty to each count of the Indictment.

It is ordered that this cause be set for trial for February 21, 1939.

Counsel present and there is signed a stipulation, and order permitting the defendant, M. N. Gorin, to leave the jurisdiction of this Court to go to New York and Washington, D.C. [21]

[Title of District Court and Cause.]

DEMAND FOR BILL OF PARTICULARS

Come now the defendants, Mikhail Nicholas Gorin and Natasha Gorin, and severally demand a bill of particulars, failing which the said defendants will apply to the court for an order directing the United States Attorney to furnish to the above named defendants a bill of particulars of the acts, facts, and things specified in the indictment in the above entitled cause, particularly setting forth the following:

(1) A more detailed account and specification setting out how the instruments, documents, writings, etc. contained in files Nos. 435, 439, 465, 466, 469, 472, 477, 478, 479, 480, 482, 487, 489, 495, 503, 504, 505, 507, 514, 519, 522, 525, 528, 529, 530, 532, 534, 535, 536, 541, 546, 551, 552, 554, 555, 548, 547, 540, 556, 557, 558, 559, 560, 565, 570, 665, 666, 833, 841, 849, 854, 859, 861, 889, 897, 967, 1081, 1066, 1088, 1104, 1110, 1116, 1129, 1130, 1132, 1133, 1139, 1145, 1152, were connected with or related to the national defense.

(2) A more detailed account of the nature and character of the information contained in said files above listed, or preferably, copies of reports contained in such files.

(3) A more detailed account of the information or a summary thereof contained in said files above listed, and each of [22] said files, or a summary of the information contained therein sufficient to acquaint defendants with the nature of such information.

Dated: January 27, 1939.

PACHT, PELTON, WARNE
& BLACK,
By ISAAC PACHT,
ISAAC PACHT,
Attorneys for defendants
Gorin, 510 Union Bank Building,
325 West Eighth Street,
Los Angeles, California.

[Endorsed]: Served. Filed Jan. 27, 1939. [23]

[Title of District Court and Cause.]

AFFIDAVIT FOR NOTICE OF MOTION

United States of America,
State of California,
County of Los Angeles—ss.

Mikhail Nicholas Gorin and Natasha Gorin, being each first duly sworn, on oath say: that they have read the foregoing notice of motion for bill of

particulars and know the contents thereof, and that they are advised by their counsel; after full disclosure of all the facts involved, and they verily believe the fact to be that they cannot safely go to trial on the above indictment without knowledge of the details and particulars of the matters requested in the foregoing demand for bill of particulars.

MIKHAIL N. GORIN,
NATASHA GORIN.

Subscribed and sworn to before me this 27 day of January, 1939.

[Seal] ELLA M. LEVIN,
Notary Public in and for said County and State.

My Commission Expires October 28, 1942.

[Endorsed]: Filed Jan. 27, 1939. [25]

[Title of District Court and Cause.]

NOTICE OF MOTION FOR BILL OF
PARTICULARS

To Ben Harrison, Esq., United States Attorney:

Please Take Notice that upon the verified petition of Mikhail Nicholas Gorin and Natasha Gorin, petitioners, duly verified the 27th day of January, 1939, and upon all other papers filed in the above entitled action to date, upon the indictment found against the defendants, and upon all the proceed-

ings heretofore had herein, a motion will be made at a term of this court, held in Room No., Pacific Electric Building, in the City of Los Angeles, County of Los Angeles, State of California, on the 13th day of February, 1939, at the opening of court on that day or as soon thereafter as counsel can be heard, for an order directing the United States Attorney to serve and file a bill of particulars of the above described indictment, particularly setting *for* the following:

(1) A more detailed account and specification setting out how the instruments, documents, writings, etc. contained in files Nos. 435, 439, 465, 466, 469, 472, 477, 478, 479, 480, 482, 487, 489, 495, 503, 504, 505, 507, 514, 519, 522, 525, 528, 529, 530, 532, 534, 535, 536, 541, 546, 551, 552, 554, 555, 548, 547, 540, 556, 557, 558, 559, 560, 565, 570, 665, 666, 833, 841, 849, 854, 859, 861, 889, 897, 967, 1081, 1066, 1088, 1104, 1110, 1116, 1129, [27] 1130, 1132, 1133, 1139, 1145, 1152, were connected with or related to the national defense.

(2) A more detailed account of the nature and character of the information contained in said files above listed, or preferably, copies of reports contained in such files.

(3) A more detailed account of the information or a summary thereof contained in said files above listed, and each of said files, or a summary of the information contained therein sufficient to acquaint defendants with the nature of such information.

And for such other and further relief as the Court may deem just and proper.

Dated January 27, 1939.

PACHT, PELTON, WARNE & BLACK
By ISAAC PACHT
ISAAC PACHT

Attorneys for defendants Gorin
510 Union Bank Building
325 West Eighth Street
Los Angeles, California

[Endorsed]: Filed Jan. 27, 1939. [28]

[Title of District Court and Cause.]

**NOTICE OF MOTION FOR BILL OF
PARTICULARS**

To Ben Harrison, Esquire, United States Attorney:

Please take notice that the defendant Hafis Salich, severing himself from his co-defendants and for himself alone, by Willard J. Stone, Jr., his attorney of record, will move this Court at a stated term thereof, to be held in the City of Los Angeles on the 13th day of February, 1939, at 10:00 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order requiring the United States to furnish a Bill of Particulars as to the following items:

- (1) In what manner and in which respects does the Government claim the disclosure of the infor-

mation, alleged to have been obtained and disclosed by the defendant Hafis Salich, affects the national defense?

(2) The names and identity of the individuals under the surveillance of the United States Naval Intelligence Service, reports of which were alleged to have been obtained and disclosed by the defendant Hafis Salich.

(3) The cause and character of the surveillance and investigation of said individuals, reports of which are alleged to have been obtained and disclosed by the defendant Hafis Salich.

(4) The contents of the United States Naval Intelligence files alleged to have been obtained and disclosed by the defendant [30] Hafis Salich, and bearing United States Naval Intelligence file numbers as follows:

435, 439, 465, 466, 469, 472, 477, 478, 479, 480,
482, 487, 489, 495, 503, 504, 505, 507, 514, 519,
522, 525, 528, 529, 530, 532, 534, 535, 536, 541,
546, 551, 552, 554, 555, 548, 547, 540, 556, 557,
558, 559, 560, 565, 570, 665, 666, 833, 841, 849,
854, 859, 861, 889, 897, 967, 1081, 1066, 1088, 1152,
1104, 1110, 1116, 1129, 1230, 1132, 1133, 1139,
1145.

(5) What information and reports regarding one Harry Shively, the defendant Natasha Gorin is alleged in Count 3 of the indictment to have obtained and possessed?

(6) Does the Government claim that the said information and reports, in regard to the said Harry Shively, was obtained and disclosed to the said Natasha Gorin by the defendant Hafis Salich?

WILLARD J. STONE, Jr.
Attorney for defendant Hafis Salich.

[Endorsed]: Served Filed Feb. 4, 1939. [31]

[Title of District Court and Cause.]

**STIPULATION IN LIEU OF BILL OF
PARTICULARS AND ORDER**

It is hereby stipulated by and between Ben Harrison, United States Attorney, and Norman W. Neukom, Assistant United States Attorney, on behalf of the Plaintiff, and Pacht, Pelton, Warne & Black, by Clore Warne, of counsel, attorneys for the defendants Mikhail Nicholas Gorin and Natasha Gorin; and Willard J. Stone, Jr., attorney for Hafis Salich, defendant, as follows:

Whereas, upon this 13th day of February, 1939, there was presented to and argued before the Honorable Ralph E. Jenney certain motions for bill of particulars in connection with the above captioned case; and whereas today, subsequent to said argument, the court did make its order requiring the government to provide information designated as Item 3 on page 2 of the Notice of Motion for Bill of Particulars filed by the defendants Mikhail

Nicholas Gorin and Natasha Gorin and did make a similar order with respect to requiring the government to provide the information designated as Item 3 in the Notice of Motion for Bill of Particulars filed by the defendant Hafis Salich; and

Whereas, subsequent to the making of said argument, the parties through their respective counsel have come to an agreement, hereinafter to be set forth in this stipulation, and whereas, said agreement is as follows:

That the government shall provide to be inspected at the [32] office of the United States Attorney the photostatic copies of the original reports designated by number in the indictment upon the understanding that the defendants, through their counsel, may make a summary or take information from each of said reports as they so desire, which said summary shall not be made public; and with the further understanding that it is the agreement that in the event any of the persons mentioned in said reports are desired to be contacted by the defendants in connection with the preparation of trial of this action, they shall first give notice of such desire to the United States Attorney's Office, with the understanding that if any of such individuals are contacted personally or by letter an opportunity shall be had for a representative of the United States government to accompany any party making such interview and be present during the whole of

any such interview; and with the further understanding that it is agreeable to all parties hereto the government need not comply with the order of the court respecting the giving of general information within twenty four (24) hours as is above designated.

Dated: February 13, 1939.

BEN HARRISON,

United States Attorney,

NORMAN W. NEUKOM,

Assistant U. S. Attorney,

Attorneys for Plaintiff.

PACHT, PELTON, WARNE & BLACK,

By CLORE WARNE,

Attorneys for Mikhail Nicholas Gorin
and Natasha Gorin.

WILLARD J. STONE, Jr.,

Attorney for Hafis Salich.

It is so ordered and the minute order hereofore made on [33] this 13th day of February, 1939, more specifically referred to in the foregoing stipulation, is hereby vacated and set aside.

Dated: February 13, 1939.

RALPH E. JENNEY,

United States District Judge.

[Endorsed]: Filed Feb. 13, 1939. [34]

At a stated term, to wit: The February Term, A. D. 1939, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Friday the 10th day of March in the year of our Lord one thousand nine hundred and thirty-nine.

Present: The Honorable: Ralph E. Jenney, District Judge.

[Title of Cause.]

This cause coming on for further jury trial of defendants Hafis Salich, ~~Mikhail~~ Nicholas Gorin, and Natasha Gorin, who are present; Ben Harrison, U. S. Attorney, and N. W. Neukom, Assistant U. S. Attorney; appearing for the Government; Willard Stone, Esq., appearing for Defendant Salich; and Clore Warne and Isaac Pacht, Esq., appearing for Defendants Gorin; H. E. Snyder and A. Wahlberg being present as court reporters and reporting the proceedings; and the jury being present:

The case is re-opened, pursuant to stipulation and order of the Court, for the purpose of ruling on motion of Defendants Gorin to strike; and the said motion is granted in part and denied in part as reflected in reporters' transcript.

At 10 o'clock A. M. the Court instructs the jury.

At 10:50 o'clock A. M. the Court reminds the jury of the admonition heretofore given and declares a recess. At 11:08 o'clock A. M. Court re-

convenes, and the jury and the defendants being present, the Court instructs the jury further.

At 11:40 o'clock A. M. the Court reminds the jury of the admonition heretofore given. Richard Ransdell, James H. Denison, and G. C. Welch are sworn as bailiffs to care for the jury, and the jury are now excused in the custody of the said bailiffs until 2 o'clock P. M.

It is ordered that the jury and the alternate juror be taken to lunch in the custody of the two bailiffs at the expense of the Government.

At 11:50 o'clock A. M. Court recesses until 2 o'clock P. M. At 2:15 o'clock P. M. Court reconvenes, and the jury and the defendants being present, the Court instructs the jury further. [35]

At 2:35 o'clock P. M. the jury retires in custody of the three bailiffs to consider its verdict. It is stipulated and ordered that the jury may have the Indictment and exhibits for its consideration.

The alternate juror is thanked and discharged from this case and is excused for the term.

It is ordered that all the defendants remain in the Court room or within the immediate vicinity of the Court room until further order of the Court.

At 2:45 o'clock P. M. Court recesses until the return of the jury.

At 4:50 o'clock P. M. Court reconvenes, and the defendants and their counsel being present, and the counsel for the Government being present as before, the jury now return into the Court room.

Verdict of acquittal of Defendant Natasha Gorin and conviction of Defendant Mikhail Nicholas Gorin and Hafis Salich on all three counts is presented, read, and ordered filed and entered herein, to-wit:

[Title of District Court and Cause.]

VERDICT

We, the Jury in the above entitled cause, find the defendant Hafis Salich guilty as charged in the first count of the indictment, guilty as charged in the second count of the indictment, and guilty as charged in the third count of the indictment; find the defendant Mikhail Nicholas Gorin guilty as charged in the first count of the indictment, guilty as charged in the second count of the indictment, and guilty as charged in the third count of the indictment; and find the defendant Natasha Gorin not guilty as charged in the first count of the indictment, not guilty as charged in the second count of the indictment, and not guilty as charged in the third count of the indictment.

FRED M. COX,

Foreman of the Jury.

Los Angeles, Calif., March 10th, 1939.

[Endorsed]: Filed Mar. 10, 1939. [36].

It is ordered that Defendant Natasha Gorin be discharged and her bond exonerated.

It is ordered that the Defendants Mikhail Nicholas Gorin and Hafis Salich be, and they hereby are, remanded to the custody of the United States Marshal.

The jury is thanked and discharged from this case.

Clore Warne, Esq., moves the Court for release of Defendant Mikhail Nicholas Gorin on his present bond pending further proceedings. Ben Harrison, U. S. Attorney, opposes Attorney Warne's motion for release; unless the amount of bond of the said defendant is materially increased.

It is now ordered that this cause be, and it hereby is, continued to March 11, 1939, at 10 o'clock A. M. for further hearing on the motion for release of Defendant Mikhail Nicholas Gorin on bond, etc., and for fixing time for sentence of the convicted defendants, the order of remand to stand until that time. [37]

'At a stated term, to wit: The February Term, A. D. 1939, of the District Court of the United States of America, within and for the Central Division of the Southern District of California, held at the Court Room thereof, in the City of Los Angeles on Monday the 20th day of March in the year

of our Lord one thousand nine hundred and thirty-nine.

Présent:

The Honorable Ralph E. Jenney, District Judge.

[Title of Cause.]

This cause coming on for (1) hearing motion of Defendant Mikhail Nicholas Gorin for arrest of judgment; (2) hearing motion of Defendant Mikhail Nicholas Gorin for a new trial; (3) hearing motion of Defendant Hafis Salich for judgment notwithstanding the verdict or for a new trial; (4) for sentence of Defendants Hafis Salich and Mikhail Nicholas Gorin on all three counts; and (5) further proceedings re bail of Defendant Hafis Salich; Ben Harrison, U. S. Attorney, and N. W. Neukom, Assistant U. S. Attorney, appearing for the Government; Willard Stone, Esq., appearing for Defendant Hafis Salich; and Clore Warne and Isaac Pacht, Esqs., appearing for Defendant Mikhail Nicholas Gorin; A. Wahlberg being present as court reporter and reporting the proceedings:

Re (1) Motion of Defendant Mikhail Nicholas Gorin for arrest of judgment, Attorney Pacht makes the motion and argues in support of same; the said motion is ordered denied, and exception noted.

Re (2) Motion of Defendant Mikhail Nicholas Gorin for a new trial, Attorney Pacht makes the motion and argues in support of same; the said motion is ordered denied, and exception noted.

Re (3) Motion of Defendant Hafis Salich for judgment notwithstanding the verdict or for a new trial, Attorney Stone makes the motion and argues in support of same; the said motion is ordered denied, and exception noted.

The Court now pronounces sentence upon each of the said defendants as follows:

District Court of the United States, Southern District of California, Central Division

No. 13,793-RJ Criminal Indictment in three counts for violation of U. S. C. Title 50, Secs. 31, 32, and 34.

UNITED STATES

v.

MIKHAIL NICHOLAS GORIN [38]

JUDGMENT AND COMMITMENT

On this 20th day of March, 1939, came the United States Attorney, and the defendant Mikhail Nicholas Gorin appearing in proper person, and by Isaac Pacht and Clore Warne, Esqs., his attorneys, and,

The defendant having been convicted on verdict of guilty of the offenses charged in the indictment in the above-entitled cause, to-wit: copy, take, make, and obtain instruments, documents, writings and notes of matters connected with the national defense; communicate, deliver, and transmit same to

a representative, officer, agent, employee, subject, and citizen of a foreign country; and conspiracy to do the same, with intent and reason to believe same was to be used to injury of U. S. A. and advantage of a foreign nation, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, It Is By The Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the penitentiary type to be designated by the Attorney General or his authorized representative for the period of six (6) years on the third count of the indictment; for the period of six (6) years on the second count of the indictment, said term of imprisonment to begin and run concurrently with that imposed on count three of the indictment; and for a period of two (2) years and pay a fine unto the United States of America in the sum of ten thousand (\$10,000.00) dollars on the first count of the indictment, said term of imprisonment on the first count of the indictment to begin and run concurrently with the sentences imposed on counts two and three of the indictment, for said period of two years.

It Is Further Ordered that Clerk deliver a certified copy of this judgment and commitment to the

United States Marshal or other qualified officer and
that the same shall serve as the commitment herein.

RALPH E. JENNEY,
Judge.

[Endorsed]: Filed, March 29, 1939. [39]

District Court of the United States, Southern Dis-
trict of California, Central Division.

No. 13,793-RJ Criminal Indictment in three counts
for violation of U.S.C. Title 50, Secs. 31, 32
and 34.

UNITED STATES

v.

HAFIS SALICH

JUDGMENT AND COMMITMENT

On this 20th day of March, 1939, came the United
States Attorney, and the defendant Hafis Salich,
appearing in proper person, and by Willard Stone,
Esq., his attorney, and,

The defendant having been convicted on verdict
of guilty of the offenses charged in the indictment
in the above-entitled cause, to-wit: copy, take, make,
and obtain instruments, documents, writings and
notes of matters connected with the national de-
fense; communicate, deliver, and transmit same to
a representative, officer, agent, employee, subject,
and citizen of a foreign country; and conspiracy

to do the same, with intent and reason to believe same was to be used to injury of U. S. A. and advantage of a foreign nation, and the defendant having been now asked whether he has anything to say why judgment should not be pronounced against him, and no sufficient cause to the contrary being shown or appearing to the Court, Is Is By The Court

Ordered and Adjudged that the defendant, having been found guilty of said offenses, is hereby committed to the custody of the Attorney General for imprisonment in an institution of the penitentiary type to be designated by the Attorney General or his authorized representative for the period of four (4) years on the third count of the indictment; for the period of four (4) years on the second count of the Indictment, said term of imprisonment to begin and run concurrently with that imposed on count three of the indictment; and for a period of two (2) years and pay a fine unto the United States of America in the sum of ten thousand (\$10,000.00) dollars on the first count of the indictment, said term of imprisonment on the first count of the indictment to begin and run concurrently with the sentences imposed on counts two and three of the indictment for said period of two (2) years.

It Is Further Ordered that the Clerk deliver a certified copy of this judgment and commitment to the United States Marshal or other qualified officer

and that the same shall serve as the commitment herein.

RALPH E. JENNEY,
Judge:

[Endorsed]: Filed March 20, 1939. [40]

Attorney Pacht moves for a stay of execution of the judgment imposed on Defendant Gorin for two days. The motion is ordered denied and the defendant Gorin remanded to custody.

Attorney Pacht moves for an order fixing bail of Defendant Gorin pending appeal which is ordered set at \$50,000.00, the Court stating that a substantial question of law is involved on the appeal.

Attorney Stone moves for an order fixing bail pending appeal on behalf of Defendant Salich, whereupon, it is ordered that the cause be, and it hereby is, continued to March 23, 1939, for further hearing on said motion.

It is further ordered that the defendant Hafis Salich remain in the County Jail until such time as the Court takes further action on the motion fixing bail pending appeal. [41]

[Title of District Court and Cause.]

**NOTICE OF APPEAL OF DEFENDANT
HAFIS SALICH.**

Name and address of appellant: Hafis Salich, Los Angeles, California.

Name and address of appellant's attorney: Willard J. Stone, Jr., 1017 Citizens National Bank Building, Los Angeles, California.

Offense: Violation of Title 50 United States Code, Secs. 31, 32 and 34.

Date of judgment: March 20, 1939.

Brief description of judgment or sentence: On Count 3 appellant was sentenced to four years imprisonment in a penitentiary to be fixed by the Attorney General of the United States. On Count 2 appellant was sentenced to four years imprisonment in a penitentiary to be fixed by the Attorney General of the United States. On Count 1 appellant was sentenced to two years imprisonment in a penitentiary to be fixed by the Attorney General of the United States, and to pay a fine of Ten Thousand and no/100 Dollars (\$10,000.00). The terms of imprisonment are to run concurrently.

Name of prison where now confined, if not on bail:
Los Angeles County Jail.

I, the above-named Appellant, hereby appeal to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment above-mentioned on the grounds set forth below.

Dated March 21, 1939.

HAFIS SALICH,

Appellant.

WILLARD J. STONE, JR.,

Attorney for Appellant. [42]

Grounds of Appeal

First Count

- (1) The First Count of the indictment fails to state facts sufficient to constitute a penal offense by the defendant Hafis Salich against the United States.
- (2) The evidence introduced on behalf of the Government on the First Count of the indictment is insufficient to support a conviction of the defendant Hafis Salich.
- (3) The verdict is against the weight of the evidence.
- (4) The evidence introduced by the Government fails to show that the information obtained concerns or affects the national defense.
- (5) The evidence fails to show that the defendant Hafis Salich obtained the said information with intent or reason to believe that it was to be used to the injury of the United States or the advantage of the Union of Soviet Socialist Republics.
- (6) The evidence fails to show that the defendant Hafis Salich obtained the said information with

the purpose of obtaining information affecting the national defense.

(7) The Court erred in denying the motion for directed verdict presented on behalf of defendant Hafis Salich.

(8) The Court erred in its definition of the term "affecting the national defense" in the instructions given to the jury.

(9) The Court erred in refusing to admit in evidence defendant's proffered Exhibit "A" for identification.

(10) The Court erred in admitting in evidence Government's Exhibit 5a. [43]

(11) The Court erred in admitting in evidence Government's Exhibit 5b.

(12) The Court erred in admitting in evidence Government's Exhibit 5c.

(13) The Court erred in admitting in evidence Government's Exhibit 5d.

(14) The Court erred in admitting in evidence Government's Exhibit 5e.

(15) The Court erred in admitting in evidence Government's Exhibit 5f.

(16) The Court erred in admitting in evidence Government's Exhibit 5g.

(17) The Court erred in admitting in evidence Government's Exhibit 5h.

(18) The Court erred in admitting in evidence Government's Exhibit 5i.

(19) The Court erred in admitting in evidence Government's Exhibit 5j.

(20) The Court erred in admitting in evidence Government's Exhibit 5k.

(21) The Court erred in admitting in evidence Government's Exhibit 5l.

(22) The Court erred in admitting in evidence Government's Exhibit 5m.

(23) The Court erred in admitting in evidence Government's Exhibit 6a.

(24) The Court erred in admitting in evidence Government's Exhibit 6b.

(25) The Court erred in admitting in evidence Government's Exhibit 6c.

(26) The Court erred in admitting in evidence Government's Exhibit 6d. [44]

(27) The Court erred in admitting in evidence Government's Exhibit 6e.

(28) The Court erred in admitting in evidence Government's Exhibit 6f.

(29) The Court erred in admitting in evidence Government's Exhibit 6g.

(30) The Court erred in admitting in evidence Government's Exhibit 6h.

(31) The Court erred in admitting in evidence Government's Exhibit 6i.

(32) The Court erred in admitting in evidence Government's Exhibit 6j.

(33) The Court erred in admitting in evidence Government's Exhibit 6k.

(34) The Court erred in admitting in evidence Government's Exhibit 6l.

(35) The Court erred in admitting in evidence Government's Exhibit 6m.

(36) The Court erred in admitting in evidence Government's Exhibit 6n.

(37) The Court erred in admitting in evidence Government's Exhibit 6o.

(38) The Court erred in admitting in evidence Government's Exhibit 6p.

(39) The Court erred in admitting in evidence Government's Exhibit 6q.

(40) The Court erred in admitting in evidence Government's Exhibit 6r.

(41) The Court erred in admitting in evidence Government's Exhibit 6s.

(42) The Court erred in admitting in evidence Government's Exhibit 6t. [45]

(43) The Court erred in admitting in evidence Government's Exhibit 6u.

(44) The Court erred in admitting in evidence Government's Exhibit 6v.

(45) The Court erred in admitting in evidence Government's Exhibit 6w.

(46) The Court erred in admitting in evidence Government's Exhibit 6x.

(47) The Court erred in admitting in evidence Government's Exhibit 6y.

(48) The Court erred in admitting in evidence Government's Exhibit 6z.

(49) The Court erred in admitting in evidence Government's Exhibit 6aa.

(50) The Court erred in admitting in evidence Government's Exhibit 6bb.

(51) The Court erred in admitting in evidence Government's Exhibit 6cc.

(52) The Court erred in admitting in evidence Government's Exhibit 6dd.

(53) The Court erred in declining to give Instruction No. X requested on behalf of Hafis Salich.

(54) The Court erred in declining to give Instruction No. XI requested on behalf of Hafis Salich.

(55) The Court erred in declining to give Instruction No. XII requested on behalf of Hafis Salich.

(56) The Court erred in declining to require production of documents named in subpoena duces tecum served on Henri de B. Claiborne.

(57) The Court erred in its definition of the term "with intent or reason to believe, etc." in the instructions given to the jury. [46]

Second Count

(1) The Second Count of the indictment fails to state facts sufficient to constitute a penal offense by the defendant Hafis Salich against the United States.

(2) The evidence introduced on behalf of the Government on the Second Count of the indictment

is insufficient to support a conviction of the defendant Hafis Salich.

(3) The verdict is against the weight of the evidence.

(4) The evidence introduced by the Government fails to show that the information communicated and transmitted concerns or affects the national defense.

(5) The evidence fails to show that the defendant Hafis Salich communicated and transmitted the said information with intent or reason to believe that it was to be used to the injury of the United States or the advantage of the Union of Soviet Socialist Republics.

(6) The evidence fails to show that the defendant Hafis Salich communicated and transmitted the said information with the purpose of communicating and transmitting information affecting the national defense.

(7) The Court erred in denying the motion for directed verdict presented on behalf of defendant Hafis Salich.

(8) The Court erred in its definition of the term "affecting the national defense" in the instructions given to the jury.

(9) The Court erred in refusing to admit in evidence defendant's proffered Exhibit "A" for identification.

(10) The Court erred in admitting in evidence Government's Exhibit 5a.

(11) The Court erred in admitting in evidence Government's Exhibit 5b.

(12) The Court erred in admitting in evidence Government's Exhibit 5c. [47]

(13) The Court erred in admitting in evidence Government's Exhibit 5d.

(14) The Court erred in admitting in evidence Government's Exhibit 5e..

(15) The Court erred in admitting in evidence Government's Exhibit 5f.

(16) The Court erred in admitting in evidence Government's Exhibit 5g.

(17) The Court erred in admitting in evidence Government's Exhibit 5h.

(18) The Court erred in admitting in evidence Government's Exhibit 5i.

(19) The Court erred in admitting in evidence Government's Exhibit 5j.

(20) The Court erred in admitting in evidence Government's Exhibit 5k.

(21) The Court erred in admitting in evidence Government's Exhibit 5l.

(22) The Court erred in admitting in evidence Government's Exhibit 5m.

(23) The Court erred in admitting in evidence Government's Exhibit 6a.

(24) The Court erred in admitting in evidence Government's Exhibit 6b.

(25) The Court erred in admitting in evidence Government's Exhibit 6c.

(26) The Court erred in admitting in evidence Government's Exhibit 6d.

(27) The Court erred in admitting in evidence Government's Exhibit 6e.

(28) The Court erred in admitting in evidence Government's Exhibit 6f. [48]

(29) The Court erred in admitting in evidence Government's Exhibit 6g.

(30) The Court erred in admitting in evidence Government's Exhibit 6h.

(31) The Court erred in admitting in evidence Government's Exhibit 6i.

(32) The Court erred in admitting in evidence Government's Exhibit 6j.

(33) The Court erred in admitting in evidence Government's Exhibit 6k.

(34) The Court erred in admitting in evidence Government's Exhibit 6l.

(35) The Court erred in admitting in evidence Government's Exhibit 6m.

(36) The Court erred in admitting in evidence Government's Exhibit 6n.

(37) The Court erred in admitting in evidence Government's Exhibit 6o.

(38) The Court erred in admitting in evidence Government's Exhibit 6p.

(39) The Court erred in admitting in evidence Government's Exhibit 6q.

(40) The Court erred in admitting in evidence Government's Exhibit 6r.

- (41) The Court erred in admitting in evidence Government's Exhibit 6s.
- (42) The Court erred in admitting in evidence Government's Exhibit 6t.
- (43) The Court erred in admitting in evidence Government's Exhibit 6u.
- (44) The Court erred in admitting in evidence Government's Exhibit 6v. [49]
- (45) The Court erred in admitting in evidence Government's Exhibit 6w.
- (46) The Court erred in admitting in evidence Government's Exhibit 6x.
- (47) The Court erred in admitting in evidence Government's Exhibit 6y.
- (48) The Court erred in admitting in evidence Government's Exhibit 6z.
- (49) The Court erred in admitting in evidence Government's Exhibit 6aa.
- (50) The Court erred in admitting in evidence Government's Exhibit 6bb.
- (51) The Court erred in admitting in evidence Government's Exhibit 6cc.
- (52) The Court erred in admitting in evidence Government's Exhibit 6dd.
- (53) The Court erred in declining to give Instruction No. X requested on behalf of Hafis Salich.
- (54) The Court erred in declining to give Instruction No. XI requested on behalf of Hafis Salich.

(55) The Court erred in declining to give Instruction No. XII requested on behalf of Hafis Salich.

(56) The Court erred in declining to require production of documents named in subpoena duces tecum served on Henri de B. Claiborne.

(57) The Court erred in its definition of the term "with intent or reason to believe etc." in the instructions given to the jury. [50]

Third Count

(1) The Third Count of the indictment fails to state facts sufficient to constitute a penal offense by the defendant Hafis Salich against the United States.

(2) The evidence introduced on behalf of the Government on the Third Count of the indictment is insufficient to support a conviction of the defendant Hafis Salich.

(3) The verdict is against the weight of the evidence.

(4) The information introduced by the Government fails to show that the information conspired to be transmitted concerns or affects the national defense.

(5) The evidence fails to show that the defendant Hafis Salich conspired to transmit the said information with intent or reason to believe that it was to be used to the injury of the United States or the advantage of the Union of Soviet Socialist Republics.

(6) The Court erred in denying the motion for directed verdict presented on behalf of defendant Hafis Salich.

(7) The Court erred in its definition of the term "affecting the national defense" in the instructions given to the jury.

(8) The Court erred in refusing to admit in evidence defendant's proffered Exhibit "A" for identification.

(9) The Court erred in admitting in evidence Government's Exhibit 5a.

(10) The Court erred in admitting in evidence Government's Exhibit 5b.

(11) The Court erred in admitting in evidence Government's Exhibit 5c.

(12) The Court erred in admitting in evidence Government's Exhibit 5d.

(13) The Court erred in admitting in evidence Government's Exhibit 5e.

(14) The Court erred in admitting in evidence Government's [51] Exhibit 5f.

(15) The Court erred in admitting in evidence Government's Exhibit 5g.

(16) The Court erred in admitting in evidence Government's Exhibit 5h.

(17) The Court erred in admitting in evidence Government's Exhibit 5i.

(18) The Court erred in admitting in evidence Government's Exhibit 5j.

- (19) The Court erred in admitting in evidence Government's Exhibit 5k.
- (20) The Court erred in admitting in evidence Government's Exhibit 5l.
- (21) The Court erred in admitting in evidence Government's Exhibit 5m.
- (22) The Court erred in admitting in evidence Government's Exhibit 6a.
- (23) The Court erred in admitting in evidence Government's Exhibit 6b.
- (24) The Court erred in admitting in evidence Government's Exhibit 6c.
- (25) The Court erred in admitting in evidence Government's Exhibit 6d.
- (26) The Court erred in admitting in evidence Government's Exhibit 6e.
- (27) The Court erred in admitting in evidence Government's Exhibit 6f.
- (28) The Court erred in admitting in evidence Government's Exhibit 6g.
- (29) The Court erred in admitting in evidence Government's Exhibit 6h.
- (30) The Court erred in admitting in evidence Government's [52] Exhibit 6i.
- (31) The Court erred in admitting in evidence Government's Exhibit 6j.
- (32) The Court erred in admitting in evidence Government's Exhibit 6k.
- (33) The Court erred in admitting in evidence Government's Exhibit 6l.

(34) The Court erred in admitting in evidence Government's Exhibit 6m.

(35) The Court erred in admitting in evidence Government's Exhibit 6n.

(36) The Court erred in admitting in evidence Government's Exhibit 6o.

(37) The Court erred in admitting in evidence Government's Exhibit 6p.

(38) The Court erred in admitting in evidence Government's Exhibit 6q.

(39) The Court erred in admitting in evidence Government's Exhibit 6r.

(40) The Court erred in admitting in evidence Government's Exhibit 6s.

(41) The Court erred in admitting in evidence Government's Exhibit 6t.

(42) The Court erred in admitting in evidence Government's Exhibit 6u.

(43) The Court erred in admitting in evidence Government's Exhibit 6v.

(44) The court erred in admitting in evidence Government's Exhibit 6w.

(45) The Court erred in admitting in evidence Government's Exhibit 6x.

(46) The Court erred in admitting in evidence Government's [53] Exhibit 6y.

(47) The Court erred in admitting in evidence Government's Exhibit 6z.

(48) The Court erred in admitting in evidence Government's Exhibit 6aa.

(49) The Court erred in admitting in evidence Government's Exhibit 6bb.

(50) The Court erred in admitting in evidence Government's Exhibit 6cc.

(51) The Court erred in admitting in evidence Government's Exhibit 6dd.

(52) The Court erred in declining to give Instruction No. X requested on behalf of Hafis Salich.

(53) The Court erred in declining to give Instruction No. XI requested on behalf of Hafis Salich.

(54) The Court erred in declining to give Instruction No. XII requested on behalf of Hafis Salich.

(55) The Court erred in declining to require production of documents named in subpoena duces tecum served on Henri de B. Clâiborne.

(56) The Court erred in its definition of the term "with intent or reason to believe etc." in the instructions given to the jury.

WILLARD J. STONE, JR.,

Attorney for Hafis Salich.

[Endorsed]: Filed March 22, 1939.

Received copy of the within this 21st day of March, 1939.

REN HARRISON,

U. S. Attorney

[54]

[Title of District Court and Cause.]

NOTICE OF APPEAL TO THE CIRCUIT
COURT OF APPEALS OF MIKHAIL
NICHOLAS GORIN.

Name and Address of Appellant:

Mikhail Nicholas Gorin,
residing at 147 North Irving Boulevard,
Los Angeles, California.

Name and Address of Appellant's Attorneys:

Pacht, Pelton, Warne & Black,
Isaac Pacht and Clore Warne,
Room 510, Union Bank Building,
325 West Eighth Street,
Los Angeles, California.

Offense:

Violation of Sections 31, 32 and 34 of Title 50,
United States Code.

Date of Judgment: March 20, 1939.

Brief Description of Judgment or Sentence:

On Count One of the indictment, the court imposed a sentence of two (2) years penal servitude in a penitentiary to be selected by the Attorney General and a fine of Ten Thousand Dollars (\$10,000).

On Count Two of the indictment, the court imposed a sentence of six (6) years penal servitude in a penitentiary to be selected by the Attorney General.

On Count Three of the indictment, the court imposed a sentence of six (6) years penal servitude

in a penitentiary to be selected by the United States Attorney General.

The court ordered and adjudged further that the sentences on Counts One and Two run concurrently with the sentence [56] imposed as to Count Three.

I, Mikhail Nicholas Gorin, the above named appellant, hereby appeal to the United States Circuit Court of Appeals, for the Ninth Circuit, from the judgment above mentioned, on the grounds set forth below.

Pursuant to Rule V, I hereby serve notice that I do not elect to enter upon service of the sentence pending appeal.

Dated: March 20, 1939.

MIKHAIL NICHOLAS GORIN,

Appellant.

PACHT, PELTON, WARNE & BLACK

ISAAC PACHT,

CLORE WARNE,

Attorneys for Appellant. [57]

Grounds of Appeal

I. The indictment fails to state a public offense or a crime against the United States or a violation of Sections 31, 32 or 34 of Title 50, United States Code, or any of them. The Court erred in overruling the demurrer of appellant to said indictment, and in denying his motion to quash the indictment.

II. That there was no evidence whatever to submit to the jury sufficient to support or sustain a verdict and judgment of conviction under said indictment, or any of the counts thereof, and that the Court erred in denying appellant's motions for a directed verdict of acquittal.

III. That the verdict of the jury is against the law. That the Court erred in its instructions to the jury and in overruling exceptions thereto made and taken by the appellant and in refusing to instruct the jury as requested by appellant.

IV. The Court erred in construing and interpreting Sections 31, 32 and 34 of Title 50, United States Code, and in instructing the jury as to the meaning of said statutes and in requiring the jury, by its instruction, to find and determine a matter of law and the meaning and interpretation of a criminal statute, all in violation of the Fifth, Sixth and Fourteenth Amendments to the Constitution of the United States.

V. That the Court erred in its rulings on the admission and rejection of evidence during the trial of said cause, to all of which appellant objected, and as to which adverse rulings exceptions were duly allowed and saved. [58]

VI. That the verdict of the jury is contrary to

and in violation of the instructions on the law given to it by the court.

Respectfully submitted,

PACHT, PELTON, WARNE & BLACK,
ISAAC PACHT,
CLORE WARNE,

Attorneys for Appellant.

Received copy of the within this 20th day of March, 1939.

BEN HARRISON,

U. S. Attorney.

[Endorsed]: Filed March 20, 1939.

[59]

[Title of District Court and Cause.]

BOND ON APPEAL

Be it remembered, that on the 20th day of March, 1939, before me, David B. Head, a Commissioner duly appointed by the District Court of the United States for the Southern District of California, to take acknowledgments of bail and affidavits, and also to take depositions of witnesses in civil causes depending in the Courts of the United States, pursuant to the acts of Congress in that behalf, personally appeared Mikhail Nicholas Gorin, as principal, and Fifty Thousand Dollars (\$50,000) in cash owned by Natasha Gorin as surety, and jointly and severally acknowledged themselves to be indebted to the United States of America in the sum of Fifty Thousand Dollars (\$50,000), separately to be levied and made out of their respective goods and

chattels, lands and tenements, to the use of the said United States, if default shall be made to the conditions following, to wit:

Whereas, lately on the 20th day of March, 1939, in the District Court of the United States, for the Southern District of California, Central Division, in a cause pending in said District Court between the United States of America and said Mikhail Nicholas Gorin, defendant, a judgment and sentence was rendered against the said Mikhail Nicholas Gorin, and the said Mikhail Nicholas Gorin filed an appeal in the United States Circuit Court of Appeals, for the Ninth Circuit, to reverse the judgment; and [202]

Whereas, bail was fixed in the sum of Fifty Thousand Dollars (\$50,000) pending the disposition of said appeal.

Now, the conditions of this recognizance are such, that if the said Mikhail Nicholas Gorin shall appear either in person or by attorney in the United States Circuit Court of Appeals, for the Ninth Circuit when said cause is reached for argument or when required by law or rule of said United States Circuit Court of Appeals and from day to day thereafter in said United States Circuit Court of Appeals until said cause is finally disposed of, and shall abide by and obey all orders made in said cause and shall surrender himself in execution of the judgment and sentence appealed from upon such day as the District Court of the United States for the Southern District of California may direct,

if the judgment and sentence appealed from shall be affirmed, and shall appear before the District Court of the United States for the Southern District of California on such day or days as shall be set for a retrial of said case, provided the judgment of the District Court of the United States for the Southern District of California is reversed by the said United States Court of Appeals; and shall not depart the jurisdiction of the District Court of the United States for the Southern District of California without leave, then this recognizance to be void, otherwise to remain in full force, virtue and effect.

And we, the undersigned Principal and Surety, do hereby stipulate, agree and consent, that in case the aforesaid Recognizance shall be forfeited judgment may be entered for the sum set forth in said Recognizance, and that execution issue thereon according to law.

**MICHAEL NICHOLAS GORIN,
M. GORIN,**

Principal.

NATASHA GORIN,

Surety.

Acknowledged before me the day and year first above written.

R. S. ZIMMERMAN,

Clerk, United States District
Court, Southern District of
California.

[203]

United States of America,
Southern District of California,
Central Division,
State of California,
County of Los Angeles—ss.

Natasha Gorin, being sworn, deposes and says:
That she is the owner of Fifty Thousand Dollars
deposited herein as surety on the within bond.

NATASHA GORIN,

Name

147 North Irving Boulevard,
Los Angeles, California.

Address

Examined and recommended for approval as pro
vided in Rule 13.

PACHT, PELTON, WARNE & BLACK,
ISAAC PACHT,

Attorney.

Approved as to form.

BEN HARRISON,

United States Attorney,

By NORMAN W. NEUKOM,

Asst. United States Attorney.

You are hereby directed to transfer the \$50,000
in cash heretofore deposited in this case pending
sentence to apply as surety on the within bond.

NATASHA GORIN.

Los Angeles, Calif.

March 20, 1939.

I hereby approve the within bond. Defendant to be released upon delivery hereof.

RALPH E. JENNEY

U. S. District Judge.

March 20, 1939.

[Endorsed]: Filed March 20, 1939.

[204]

[Title of District Court and Cause.]

NOTICE OF ELECTION TO COMMENCE
SENTENCE

Pursuant to Rule V of the Supreme Court, Hafis Salich hereby gives notice that he elects to commence service of his sentence immediately.

Dated: April 7, 1939.

HAFIS SALICH,

WILLARD J. STONE, JR.,

Attorney for Hafis Salich.

[Endorsed]: Received copy of the within Notice, etc., this 7th day of April, 1939.

BETTY MARSHALL GRAYDON,

Asst. United States Attorney,

Attorney for Plff.

Received copy of the within Notice this 7th day of April, 1939.

ROBERT E. CLARK,

U. S. Marshal,

By D. P. SNYDER,

Deputy.

[Endorsed]: Filed April 7, 1939.

[205]

[Title of District Court and Cause.]

STIPULATION RE FORWARDING ORIGINAL EXHIBITS TO CIRCUIT COURT OF APPEALS, ETC.

It is hereby stipulated by and between counsel for the Government and the defendants herein that there shall be forwarded by the Clerk of said District Court to the Clerk of the Circuit Court of Appeals all of the original exhibits received in evidence; where they may be considered and used in connection with the pending appeal.

It is further stipulated that a photostatic or photographic reproduction of the Government exhibit No. 3 shall be inserted in the printed transcript of record on appeal at the appropriate place designated in the Bill of Exceptions.

Dated: This 29th day of June, 1939.

BEN HARRISON,

United States Attorney,

By **NORMAN W. NEUKOM,**

Assistant United States
Attorney,

Attorney for Plaintiff.

**PACHT, PELTON, WARNE
& BLACK,**

By **CLORE WARNE,**
CLORE WARNE,

Attorneys for defendant
Mikhail Nicholas Gorin;

WILLARD J. STONE, JR.
Attorney for defendant
Hafis Salich.

ORDER

It is so ordered.

Dated: June 29, 1939.

RALPH E. JENNEY,
Judge.

[Endorsed]: Filed June 29, 1939.

[206]

[Title of District Court and Cause.]

**PRAECLYPE FOR TRANSCRIPT OF RECORD
ON APPEAL**

To the Clerk of the above Entitled Court:

Please prepare and certify a transcript of record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit in the above entitled action, and include therein the following papers and proceedings. You may eliminate all captions, except in the indictment, and other introductory matters so far as possible.

1. Indictment returned January 11, 1939.
2. Demurrer and motion of defendant Mikhail Nicholas Gorin (and Natasha Gorin) to quash said indictment;
3. Demurrer and motion to quash said indictment of defendant Hafis Salich;
4. Minutes of the court of January 16, 1939, including ruling on demurrer and motion to quash and exception allowed and arraignment and plea of the defendant Mikhail Nicholas Gorin;

5. Minutes of the court of January 16, 1939, including ruling on demurrer and motion to quash and exception allowed and arraignment and plea of the defendant Hafis Salich;

6. Demand and notice of motion for bill of particulars of the defendant Mikhail Nicholas Gorin;

7. Demand and notice of motion for bill of particulars of the defendant Hafis Salich;

8. Stipulation and order in lieu of bill of particulars; [207]

9. Minutes of March 10, 1939, showing the verdict;

10. Minutes of March 20, 1939, showing the sentence and judgment of defendant Mikhail Nicholas Gorin;

11. Minutes of March 20, 1939, showing the sentence and judgment of defendant Hafis Salich;

12. Judgment and commitment of defendant Hafis Salich and defendant Mikhail Nicholas Gorin;

13. Notice of appeal of defendant Mikhail Nicholas Gorin;

14. Notice of appeal of defendant Hafis Salich;

15. Minutes of March 20, 1939, fixing bail of defendant Gorin on appeal;

16. Bail bond of defendant Gorin on appeal;

17. Certified and engrossed Bill of Exceptions filed herein;
18. Assignment of Errors of defendant Mikhail Nicholas Gorin, filed herein;
19. Assignment of Errors of defendant Hafis Salich, filed herein;
20. Stipulation and order directing transmission of exhibits;
21. Copy of this praecipe.

Dated: This 29th day of June, 1939.

PACHT, PELTON, WARNE
& BLACK,
By CLORE WARNE,
CLORE WARNE,

Attorneys for defendant and
appellant, Mikhail Nicholas
Gorin.

WILLARD J. STONE, JR.,

Attorney for defendant and
appellant, Hafis Salich.

[Endorsed]: Served and filed June 29, 1939.

[208]

[Title of District Court and Cause.]

CLERK'S CERTIFICATE

I, R. S. Zimmerman, Clerk of the District Court of the United States for the Southern District of California, do hereby certify the foregoing pages, numbered from 1 to 208, inclusive, contain full,

true and corerct copies of the Indictment; Demurrer and Motion to Quash Indictment of Deft. Hafis Salich; Demurrer and Motion of Defts. Gorin to Quash Indictment; Minutes of January 16, 1939; Demand for Bill of Particulars; Affidavit for Notice of Motion; Notice of Motion for Bill of Particulars of Defts. Gorin; Notice of Motion for Bill of Particulars of Deft. Salich; Stipulation and Order in lieu of Bill of Particulars; Minutes of March 10, 1939; Minutes of March 20, 1939; Notice of Appeal of Deft. Salich; Notice of Appeal of Deft. Gorin; Assignment of Errors of Deft. Salich; Assignment of Errors of Deft. Gorin; Bond on Appeal; Notice of Election to Commence Sentence by Deft. Salich; Stipulation re forwarding Original Exhibits; Praecepice for Transcript of Record on Appeal, which together with the original Bill of Exceptions and Exhibits, transmitted herewith, constitute the record on appeal to the United States Circuit Court of Appeals for the Ninth Circuit.

I do further certify that the fees of the Clerk for comparing, correcting, and certifying the foregoing record amount to \$28.05, and that said amount has been paid me by the Appellants herein.

Witness my hand and the Seal of the District Court of the United States for the Southern District of California, this 14th day of July, A.D. 1939.

[Seal] R. S. ZIMMERMAN,

Clerk,

By EDMUND L. SMITH,

Deputy Clerk.

[Title of District Court and Cause.]

BILL OF EXCEPTIONS

Be it remembered that this cause came on regularly for trial on the 21st day of February, 1939, before the Honorable Ralph E. Jenney, Judge presiding, with a jury, the United States of America being represented by Ben H. Harrison, United States Attorney, and Norman W. Neukom, Assistant United States Attorney, and the defendants, Mikhail Nicholas Gorin and Natasha Gorin, being present in person, and being represented by Pacht, Pelton, Warne & Black, Isaac Pacht and Clore Warne, their attorneys, and the defendant Hafis Salich being present in person, and being represented by Willard J. Stone, Jr., his attorney, and the jury having been duly impaneled and sworn, the following proceedings were had.

Ben Harrison, Esq., United States Attorney, then made an opening statement on behalf of the plaintiff, after which the following evidence was presented and the following proceedings taken and had.

Whereupon the defendant Mikhail Nicholas Gorin (hereinafter referred to as the defendant Gorin), moved the Court to dismiss the indictment and direct a verdict of acquittal as to each and every count thereof upon the following grounds:

[210]

1. That the said indictment does not, nor does any count thereof, state a penal offense under any statute or law of the United States.

2. That the said indictment and the opening address of the District Attorney to the jury show that no penal offense under any statute or law of the United States has been committed.

3. That reports of surveillance of persons do not affect the national defense or pertain to the national defense as that term is used in the statutes under which this prosecution is being had.

4. That said moving defendant obtained or conveyed or transmitted, or conspired to obtain or transmit, no document, matter or thing named and set forth in the statutes under which this prosecution was instituted, and is being conducted, relating to or connected with the national defense.

5. That the indictment, and/or the indictment as amplified by the bill of particulars, and as further amplified by the address of the District Attorney to the jury just made, show upon their face that none of the acts alleged to have been committed by said moving defendant related to or was connected with the national defense as that term is used in Sections 31, 32 and 34 of the Espionage Act.

6. That if the substantive facts alleged in the indictment, as amplified by the bill of particulars, and as further amplified by the opening statement of the District Attorney just made to the Court, are construed to be included within the term "National Defense" or to be covered by Sections 31, 32 and 34 of the Espionage Act, it is unconstitutional and void as being uncertain and prescribing no standards of guilt or

conduct wherewith to guide said defendant, and as delegating to the Court and jury power to legislate as to the meaning of said terms and words, all as contrary to the Fifth and Sixth Amendments to the Constitution of the United States.

Said motion was by the Court denied and an exception allowed.

Whereupon the defendant, Hafis Salich, moved the Court for a directed verdict upon each and every one of the three counts of the indictment, on the following grounds:

That the statement of the United States Attorney, as stated in his opening address to the jury, does not show that the information alleged to have been obtained in Count 1 of the indictment, and disclosed and communicated in Count 2 of the indictment, and which the defendants are alleged to have conspired to disclose in Count 3 of the indictment, affect the national defense.

Upon the further ground, that the opening statement of the Government does not show proof, or his ability to present proof, upon the specific statutory intent which is set forth in the statute, that is, intent or reason to believe that the information is to be used to the injury of the United States and the benefit of a foreign nation.

And upon the further ground that no offense is committed against the United States by the defendants Hafis Salich, Mikhail Nicholas Gorin, and Natasha Gorin by conspiring to disclose, one to the

other, information affecting the national defense.

Said motion was by the Court denied and an exception was allowed. [212]

There was then offered in evidence a stipulation signed by counsel for the parties to the effect that the defendant Gorin was a citizen of the Union of Soviet Socialist Republics, which said stipulation was received in evidence and marked "Government's Exhibit No. 1."

There was then offered for the purpose of identification and marked "Government's Exhibit No. 2 for identification," another stipulation relative to certain records of the Bureau of Immigration of the Department of Labor.

L. V. McCLOUD

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

My name is L. V. McCloud. I live at 3212 Larga Avenue, Los Angeles, California. At the present time I am selling insurance. On September 30, 1938, I was engaged as a salesman on the outside in the dry cleaning business, and was employed by Leonard and Nelson Dry Cleaning Company. They are located at 4400 Melrose. I am not acquainted with Mrs. Gorin. I recall seeing her a few times, that is all. I know who she is and recognize her in the courtroom. I first met her about six months ago, I would judge approximately. She was then living

(Testimony of L. V. McCloud.)

at an address on Palmerston. The occasion of my meeting her was to pick up some dry cleaning. I met her thereafter approximately six or eight times, I suppose. She moved from that address to one on North Vermont. I saw her there but cannot recall the date of the first meeting exactly. I saw her there September 30th of last year and remember calling upon her at that time. I would say it was about ten o'clock in the morning. I called on her at her home to solicit dry cleaning. I received a couple of suits from her personally [213] at that time, and took them out and put them in the truck and went on my way. About a half hour later, after making some other stops, I had occasion to write up the orders that I had picked up and put the tickets in the pockets of the suits and articles that I picked up. These were men's suits that I picked up, also a ladies' blouse, I think. When I put the order in the pocket of one of the men's suits, I found an envelope. I cannot say what pocket it was. It was a regular sized envelope, a stationery envelope. I examined the contents of the envelope and found a form of letter—which really wasn't a letter; it had no heading or anything. It was a form of a document with a \$50 bill in this envelope. I put the envelope in my pocket and I put the contents back in the envelope. I went on my way to Beverly Hills and made some more calls, and called in to the shop for my calls for pick ups about 10:30 or eleven o'clock. I made some more calls that I had

(Testimony of L. V. McCloud.)

received over the telephone and then I called back in to Mr. Leonard or in to the shop. I thereafter returned to the shop. This was approximately twelve o'clock in the daytime. I returned to the shop about two hours after going to the Gorin home on North Vermont. I did not enter the shop when I returned then. I saw at the shop a man that was living up at the Gorins at that time. I did not know the man. I did not know who he was. I don't know his name. When I first drove up I didn't see anyone with the exception of him. I then drove away and went to the corner down on Beverly Boulevard and called up the shop again. I then waited there for Mrs. Nelson to come down. I wanted to talk to her. She is the owner of the place where I worked. After I talked to her, I went to the Hollywood Police Station. I had showed to Mrs. Nelson this envelope and its contents. I still had it with me when I went to the police station. There I saw the secretary—they sent me upstairs to the police department—[214] one of the heads of the police department up there, the detective bureau, I guess it was, the head of the detective bureau, Miss Hendricks I think was the secretary's name; Captain Jones, I believe, was the man that I saw and talked to. I showed this envelope that I found to them. The secretary made a copy of the letter—this document. I saw her make the copy. When I spoke of the secretary I mean Miss Fredericks.

(Testimony of L. V. McCloud.)

The envelope had no writing on it. The document had some writing and handwriting on it in a foreign language. I was present while Miss Fredericks made a copy of the document. Everything that was on the original document was copied with the exception of the foreign writing. After the copy was made, I put the original back in the envelope and went back to the shop. When I arrived at the shop I gave it to Mrs. Gorin personally. This was approximately one o'clock. The document you show me, which has in red "R2896," looks very much like the same copy.

The document referred to was marked "Government Exhibit No. 3 for identification."

(Witness continues)

I saw Miss Fredericks operate the typewriter and saw her typewrite this document. This particular document, Government's Exhibit No. 3 for identification, is the same copy. I saw Miss Fredericks place some figures and drawings on the bottom of the document which she drew as near like the one that was on the letter as possible. She made a very good copy of it, however, because we compared them at the time. The original of that document, with the exception of the writing in a foreign language, was the instrument that was found in this envelope and suit, and was the instrument that I returned and gave to Mrs. Gorin. I had picked up clothes before from Mrs. Gorin. The man that was

(Testimony of L. V. McCloud.)

at the shop when I returned on my way to the police station I would describe as follows: he was rather a slender fellow. I thought he was of [215] a Mexican type, but I found out later he was Russian. I would say that he was about 5-7 or about 5-6 tall, and weighed about 145 or '50 pounds, a rather slender fellow. I saw him after that time down on Main Street. I was called to identify him in the Government building. I identified him at that time. This was on Sixth and Main in the Pacific Electric Building. I think it was on the second or third floor, where the Government offices were at that time. His name was Stepanian.

Cross Examination

By Mr. Pacht:

Before I met this gentleman, whose name was just mentioned to me by Mr. Harrison, Mr. Stepanian, I had seen him at Mr. Gorin's house on about three occasions. He was not introduced to me by either Mr. or Mrs. Gorin. To be frank about it, I don't know really when I found out his name. I don't know when I remember hearing it first, or what it was, as to his name. Mrs. Gorin was one of my regular customers from whom I received clothes to clean in the regular course of our business. She was recommended through someone else. That is how I happened to get the order, the first order.

(Testimony of L. V. McCloud.)

And from time to time I picked up all kinds of clothes at her house to be cleaned, just men's clothes and women's clothes, that is all.

ALICE A. NELSON

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

My name is Alice A. Nelson and I live at 1907 Lucile Avenue. I own a dry cleaning establishment located at 4400 Melrose. It is operated under the name of Leonard and Nelson Dry Cleaning Company. I have never seen Mrs. Gorin until September 30th when she came into the store. [216] I would say it was approximately 10:30 in the morning when she came to my place on that day. The office force was present when she came in. A gentleman was with her. I would know him again if I saw him. I didn't know his name at the time. Thereafter I learned his name. It was Stepanian. I had a conversation with Mrs. Gorin at my place of business when she came in that morning. I think perhaps Mr. Leonard was also present. I couldn't say definitely. We were all working in the back part of the store, and Mrs. Gorin was standing at the back part

(Testimony of Alice A. Nelson.)

of the store, where they could hear any conversation that went on. Whether they made any note of it or not, I couldn't say.

Q. What did Mrs. Gorin say to you at that time?

To which question objection was made on behalf of defendants Gorin and Salich on the ground that it was hearsay as to them, not binding, incompetent, irrelevant and immaterial, and on the further ground that no foundation had been laid and no proof of any conspiracy had been introduced, which said objection was overruled, subject to a motion to strike said testimony if not connected up. Exception allowed.

The Witness: She asked me when I expected Mr. McCloud in, and how long did I think she would have to wait for him.

By Mr. Harrison:

Q. Did you make any reply to her?

A. I told her that it would be some time around 12:00 or 12:30; that he usually came in about that time.

Q. And what time did you say this conversation took place, about what time?

A. Around 10:30 in the morning.

Q. Was that the substance of your conversation at that time?

(Testimony of Alice A. Nelson.)

A. Yes. She came back and asked me, I would say maybe [217] two or three times afterwards, how much longer—

Q. (Interrupting) I mean at that time.

A. At that time that was all there was to it.

Q. Then at that time what did Mrs. Gorin do?

A. She went out and sat down in the office.

Q. Did she continue to remain there?

A. Part of the time; part of the time she was walking around.

Q. Did you have any further conversation with her that morning?

A. That was the substance of it, because that was what she was asking. She asked me perhaps two or three times more, how much longer I thought it would be, and if I had heard from Mr. McCloud.

Q. Did you notice her demeanor at that time?

To which question objection was made by the defendant Gorin upon the ground as calling for the opinion of the witness, which objection was overruled. Exception allowed.

The Court:

The testimony of this witness, in answer to this question, is not that of an expert. Any one of us knows whether a person is very happy and laughing and smiling or when they seem to be agitated or excited, and they are perfectly capable of describing to the jury that type of emotion without having to be experts.

(Testimony of Alice A. Nelson.)

The witness is instructed not to say what she concluded about the conduct of the witness, or to draw any inference. She may tell what Mrs. Gorin did and what her actions were. If, from that, the jury is able to say that she was glad or laughing or agitated, that is a matter for the jury to determine.

By Mr. Harrison:

Q. Will you proceed in accordance with the Court's instructions, Mrs. Nelson? [218]

A. Well, I don't know just what I would say, except that she walked around the store, she wouldn't remain seated. We offered her a magazine, and she didn't want to read. And that was about all I could say. [219]

(Witness continues) That morning she asked me about three times how much longer I thought it would be before Mr. McCloud would come in. Mr. Stepanian did not remain there during the balance of the morning. He left about a half hour after they arrived. I did not talk to Mrs. Gorin at any time that morning on the telephone. I was not present when the envelope was returned to her. I did not remain at the shop all morning. I left around twelve o'clock to meet Mr. McCloud. When I met him he showed me a plain envelope with a sheet of paper with typewriting on it, and a map drawn on it, and some writing at the bottom in a foreign language which I didn't know what it was—and a

(Testimony of Alice A. Nelson.)

\$50 bill. The document Mr. McCloud showed me was a plain sheet of paper, with some typewriting at the top, mentioning some Japanese names, Nakadate was one, and some Japanese dentists, also by the name of Nakadate, as I recall; and a beauty shop operated in San Diego; and a map drawn at the bottom of it, showing a square in the center, and two squares down at the bottom like they might be branches, or something of the sort, and the writing was at the bottom of it. I could not read the writing. It was unintelligible to me. I would say that Government's Exhibit No. 3 for identification which you have shown me was an exact copy of it except for the writing at the bottom. I had no conversation with Mr. Gorin relative to whether or not the money had been found.

Cross Examination

By Mr. Stone:

At the time I met Mr. McCloud it was close to twelve o'clock. I was with him I should say five minutes, maybe ten. I met him at the corner of Beverly and Kenmore. We sat in the car and looked over this paper and discussed what to do with it. At the end of ten minutes I returned to the shop. I have never seen the original paper since I first saw it in the car. [220]

Defendant Salich then moved the court to strike the whole of the testimony of the witness Alice A.

(Testimony of Denton W. Leonard.)

Nelson upon the ground that it was not binding on him and did not tend to prove or disprove any of the issues against him, which said motion was denied. Exception allowed.

DENTON W. LEONARD

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

My name is Denton W. Leonard. I am in the dry cleaning business on 4400 Melrose, and am associated with Mrs. Nelson. I was in such business on September 30, 1938, and on that day talked to a lady who said that she was Mrs. Gorin over the telephone. I would say that this was somewhere around 9:00 and 10:30 in the morning. Thereafter I saw Mrs. Gorin on the same morning and learned that she was the same person to whom I had talked on the telephone. I met her in the shop. I don't believe that anyone was present except Mrs. Gorin and myself. It was about 10:00, 10:30 in the morning, along in there somewhere. It wasn't so very long after I had received this telephone call, I would say maybe a half hour.

Q. And what did the party purporting to be Mrs. Gorin say to you?

(Testimony of Denton W. Leonard.)

To which question objection was made on behalf of the defendants, Gorin and Salich that it was hearsay as to them and that no conspiracy had as yet been proven and that any statement made by Mrs. Gorin was not binding on them, which objection was overruled. Exception allowed.

The Witness: She said that our driver had called at [221] their home and picked up several garments for dry cleaning, and that in the pocket of one of the suits was some money and some valuable papers.

By Mr. Harrison:

Q. Was anything else said by you to her in response to that statement?

A. I told her that if they were in the pocket when he picked them up, they would be in the pocket when he brought them in, or he would find them in the meantime.

The Court: Will you repeat that last portion of your statement? I didn't get it.

The Witness: I told her that if they were in the pocket when he picked the garment up, that they would still be there when he brought it in, or else he might have found them in the meantime.

(Witness continues) Mrs. Gorin came into the shop after that. I didn't notice particularly whether anybody was with her. There might have been or might not have. I wouldn't say. I didn't take any particular notice of it. I had no conversation with her in the shop except she asked me if Mr. McCloud

(Testimony of Denton W. Leonard.)

had come in yet, or if he had phoned in, and I told her no. Later on in the morning Mr. McCloud talked to me—I don't remember just the time—I presume around eleven o'clock. I communicated that fact to Mrs. Gorin. I told her that we found the money and papers and that he would bring them in. I do not remember any response she made to that. I think she went out on the sidewalk once or twice. I don't remember, it seems to me she did, but I wouldn't say positively. She stayed in the front of the shop, in the office, most of the time. I didn't pay any attention to her actions while she was there.

Cross Examination

By Mr. Pacht:

[222]

I wouldn't say that there was nothing about her conduct that attracted my attention at that time, except that she was there, a customer, waiting to see somebody. The place in the front of our establishment where the customers wait is between ten and twelve feet wide and about sixteen feet long. Customers frequently come in and out of our store. Very few of them are impatient about waiting, that is an exception. I couldn't tell the exact time Mrs. Gorin got to our establishment that morning. I would say probably around ten, maybe a little after that—I don't know—I didn't pay any attention to it. It wasn't as late as twelve, I am sure. She

(Testimony of Denton W. Leonard.)

said something about missing some money out of the clothes that had been sent to us. She did not say how much. She asked whether Mr. McCloud had reported finding the money. When she first asked me I told her that he hadn't called in.

Redirect Examination

By Mr. Harrison:

Mrs. Gorin called in and talked to me that morning on the telephone just once.

R. E. WILSON

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

My name is R. E. Wilson. I live at 2042 Glendon Avenue. I am in the dry cleaning business, employed by Alice Nelson at her place of business, 4400 Melrose Avenue. The firm name of the business is Leonard and Nelson. I know Mrs. Gorin when I see her. I first saw her that morning, September 30th, in the shop where the dry cleaning establishment is at 4400 Melrose Avenue. There was someone with her. At that time I did not know who that person was. Thereafter I learned it was Mr. Stepanian. I would say she came [223] to the place at approximately 10:30 in the morning, maybe a

(Testimony of R. E. Wilson.)

little later, but not a lot. At that time she introduced me to Mr. Stepanian. Prior to her arrival at our place of business, I had talked to her on the telephone, the first time, I would imagine, around ten o'clock.

Q. And will you relate the conversation you had with her at that time?

To which question defendant Gorin objected on the grounds that it was hearsay as to him, not binding upon him, and no foundation laid for its introduction in that no proof of conspiracy had been introduced. Objection was overruled. Exception allowed.

The Court: You may relate the conversation.

The Witness: She asked me if the driver had returned to the store yet. I stated that he had not. She stated that she was Mrs. Gorin, and that they had left some money in some clothes, and I told her that if she had that the chances are that Mr. McCloud would find it and it would be returned. And, furthermore, she asked me about what time he would be there, at the store.

By Mr. Harrison:

Q. What did you tell her?

A. I told her he would call in about 10:30, or approximately around there.

(Witness continues): Thereafter I saw Mrs. Gorin that morning at the shop, 4400 Melrose. Mr. Stepanian was with her as I have testified. I had a conversation with her at that time.

(Testimony of R. E. Wilson.)

Q. Will you please give us the substance of that conversation?

To which question defendant Gorin objected on the grounds that it was hearsay as to him, not binding upon him, and no foundation laid for its introduction in that no proof of conspiracy [224] had been introduced. Objection was overruled. Exception allowed.

The Witness: She simply asked, or rather stated, that Mr. Stepanian would wait for the money.

By Mr. Harrison:

Q. Was there any conversation at that time relative to where Mr. McCloud was, or how she could find him?

A. Yes. She asked if she could have a list of the customers that he was seeing on that particular morning, and go out and find him on the route, and I objected to that. I said we didn't do that.

Q. That is the substance of the conversation you had with her? A. Yes, sir.

J. J. JONES

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

I live at 1212 South Highland Avenue, Los Angeles. I am a police officer, Captain of Detectives

(Testimony of J. J. Jones.)

located with the Hollywood Division. I have been on the Police Department since 1913, and have been in Hollywood about two years and a half. I was acting in that capacity on September 30, 1938. I met Mr. McCloud at that time when he came to the office, about September 3rd. I think I am mistaken. I believe it was October 3rd, now, instead of September 3rd. At that time Mr. McCloud showed me an envelope and a letter and a \$50 bill. I examined the letter at that time. I instructed the secretary to copy it as best she could, and return the whole thing, including the envelope, \$50 and the original document, to Mr. McCloud. The document I saw at that time was partly typewritten and partly handwritten. The handwriting seemed to be in a foreign language, one that I couldn't understand. Besides some [225] typewriting and some foreign language, there was on the paper, a diagram, some sort of a diagram. Miss Fredericks, the secretary, copied the body of the instrument and I instructed her to draw as near as she could a copy of the diagram which was on it. She did that. Government Exhibit No. 3 for identification which you are showing me is the copy that Miss Fredericks made of the letter that Mr. McCloud brought in on that day. Everything is complete that was in English. The foreign language, we couldn't make it out very good. We didn't copy that.

(Testimony of J. J. Jones.)

Cross Examination

By Mr. Pacht:

When I spoke of a diagram on the original of the paper, of which Government Exhibit No. 3 for identification purports to be a copy, I am referring to the two or three boxes—shown here with the names of some dentist? I was referring to the names of some people here, one having in it the word "dentist" and the other "Paul" with some other word, "born in Hawaii,". I would call that a diagram, what you have there. It is a picture of something, indicating certain locations, so far as that was concerned. That is my opinion as to what is or there. I don't speak Russian and was unable to read anything that was on the bottom of this Exhibit No. 3 for identification. I was not able to read the foreign language that was on there. I suggested to Mr. McCloud that Miss Fredricks make a copy of it. I suggested photostating it at our Police Technical Research Bureau, but Mr. McCloud stated that he thought the people were waiting for it, and I called Lieutenant Lane, who is in charge of our Intelligence Bureau, and he suggested just copying it. It was not photostated, and I turned the document over to my secretary and directed her to make a copy of it on the typewriter as best she could. I approved it after she had made it out. Part of the time I could see her working on the typewriter. I suppose she was making it out. I compared everything that she [226] put on the

(Testimony of J. J. Jones.)

copy. I can't remember whether after she brought the copy to me and brought the original back to me that I or anybody else read either the original or the copy while we compared the documents. I relied on her to make a copy and what she handed to me appeared to be a correct copy, but I took no pains to compare the language as between the original and the copy. I took particular pains to compare the markings on the bottom here with those on the original and these on the copy here offered for identification appear to look like those on the original.

There was then read to the jury by Mr. Neukom, Assistant United States Attorney,

GOVERNMENT'S EXHIBIT NO. 1,

which, after giving the caption of the case, was in words and figures as follows:

"It is hereby stipulated by and between Ben Harrison, United States Attorney, and Norman W. Neukom, Assistant United States Attorney, on behalf of the plaintiff, and Pacht, Pelton, Warne & Black by and through Clore Warne of counsel, attorneys for the defendants Mikhail Nicholas Gorin and Natasha Gorin, and Willard J. Stone, Jr., attorney for Hafis Salich, as follows:

That it is conceded and admitted for the purpose of this trial that the defendants Mikhail Nicholas Gorin and Natasha Gorin were at all

times mentioned in the indictment citizens of the country commonly known as Russia or Union of Soviet Socialist Republics.

It is further stipulated that the said Mikhail Nicholas Gorin and Natasha Gorin did first arrive in this country on or about the 10th day of January, 1936, arriving in this country under a passport issued by the Union of Soviet Socialist Republics, which said passport was No. 02431-24549, issued at Moscow, Russia, November 17, 1935, and that the said Mikhail Nicholas Gorin and Natasha [227] Gorin were admitted into this country by the Immigration and Naturalization service of the United States and have continued to reside in this country under and pursuant to the terms of their original admission and temporary stays granted from time to time thereafter by the Immigration and Naturalization Service.

It is further stipulated that the said Mikhail Nicholas Gorin and Natasha Gorin have been, at all times during their lives, and still are, citizens of the country commonly known as Russia.

It is farther stipulated that this stipulation may be read to the court and jury and received in evidence without the necessity on the part of the Government of offering any corroborating or additional evidence to support the facts herein stipulated to.

Dated this 20th day of February, 1939."

vs. United States of America

There was then offered and received in evidence,

GOVERNMENT'S EXHIBIT NO. 2,

said exhibit consisting of a stipulation which was specifically offered only against the defendant Gorin, the Court instructing the jury that such stipulation was not offered against or binding on the defendant Salich.

There was then read to the jury the said Government's Exhibit No. 2, termed "Stipulation pertaining to Immigration and Naturalization file", in words and figures as follows:

"It is hereby stipulated by and between Ben Harrison, United States Attorney, and Norman W. Neukom, Assistant United States Attorney, on behalf of the plaintiff; and Pacht, Pelton, Warne & Black, by and through Clore Warne of counsel, attorneys for the defendants Mikhail Nicholas Gorin and Natasha Gorin, and Willard J. Stone, Jr., attorney for Hafis Salich, as follows:

That attached to the original of the herein stipulation is a true and exact photostatic copy of the original file of the Department of Labor, No. 55968-75, which bears the certification date of January 11, 1939, and which is a true and exact photostatic copy of the original record relating to the arrival and extension [228] of stay of Mr. Gorin and wife, Natalia and their minor child. That said document consists in all of 32 pages including the certification page

thereof, and is the official record of said file pertaining to said persons for the purposes above designated of the Immigration and Naturalization Service, Department of Labor of the United States of America.

It is stipulated that all interested parties to the herein action have, by and through their counsel, examined the original of said instrument, of which the attached are photostatic copies, and have compared same and are satisfied that the photostatic copies reflect the true and correct copy of the original.

That the said Mr. Gorin and his wife, Natalia, are one and the same as the defendants designated in the herein indictment as Mikhail Nicholas Gorin and Natasha Gorin.

It is further stipulated that whereas, in accordance with the regulations of the Government, the original of said instrument cannot be offered in evidence, that the said photostatic hereunto attached to the original of the stipulation shall be deemed for all purposes as though it were the original of what it purports to reflect.

It is further stipulated that if the contents of the said attached instrument, or any part thereof, is ruled by the Court as material evidence in the trial of the herein case, that the plaintiff need not lay any foundation with respect thereto, such as the producing of officials of the Government to testify as to said instru-

ment being an official record of the Department of Immigration and Naturalization Service and what it purports to be, nor shall the Government be required to produce any of the inspectors, agents or officers who conducted any of the examinations and elicited any of the questions or obtained any of the answers of the parties involved, the defendants herein, as is reflected by the contents of said instrument. [229]

It is further stipulated that no foundation need be laid prior to offer of any of the letters or documents, a part of this complete instrument hereunto attached, independent of the original examination conducted of the defendants and the application made for extension of stay subject to the same reservation as hereinafter appears in this stipulation.

However, while the defendants waive any objections they may have with respect to a foundation which might otherwise have to be laid to offer said instrument in evidence, they reserve the right to object to the materiality and relevancy, in whole or in part, of the contents of said instruments, to the interests involved in the herein action.

It is further stipulated that if the Court rules said attached file, or any part thereof, is material and relevant in connection with the trial of the herein action, that said instrument, or any part thereof, so ruled by the Court as being material may be offered in evidence."

Mr. Neukom: At this time, your Honor, I will not read the parts, but will reserve the right to do so at some later time.

Hereafter in this Bill of Exceptions is contained the balance of Exhibit No. 1 thereafter read to the jury.

ISABEL A. FREDERICKS

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Neukom:

I am secretary to the Captain of Detectives, Hollywood, Captain J. J. Jones, who testified the other day. I have been engaged in that work for sixteen years. I recall an incident on September 30th of last year, which occurred at our offices in Hollywood. I was on duty and Mr. McCloud came in. It was between twelve and one, I should say. I had a conversation with him about the document, there being present Mr. McCloud and myself. He is the same Mr. McCloud whom I saw testify the other day. I have seen [230] Government Exhibit No. 3 for identification you are showing me. I saw it on September 30th when I received a copy. I prepared it from an original copy of the document I received on that date. I received it from Mr. McCloud originally. I examined the original document. Government's Exhibit No. 3 for identification reflects

(Testimony of Isabel A. Fredericks.) substantially the contents of the original document so far as the typing is concerned. After I had typed this copy from the original document which Mr. McCloud presented to me, I compared the typed copy with the original document, and found it to reflect substantially that it was an exact copy of the original. I prepared the document at the bottom of the page where there are certain squares and names within those squares, or beside them, in ink. I prepared them from a diagram on the original copy that I had received. There was some additional writing on the original document which was in pencil. I could not read all of it. The only thing I read was what I copied. The other was in a foreign language, and I couldn't make it out, so I left it out. The word "Copy" at the very top of the page on Government Exhibit No. 3 for identification did not appear on the original document. The red symbol on it, "R 2896" on the right-hand side, was not on the original document from which I copied.

Cross Examination

By Mr. Pacht:

I did the best I could to make a correct copy of this document, Government Exhibit No. 3 for identification. My artistic work in the way of drawing was the best that I could do. As far as I am now able to tell, what I drew here in the way of lines at the bottom of Government Exhibit No. 3 for identification looks as much alike as the original

(Testimony of Isabel A. Fredericks.)

from which I copied, except these lines with the names of "Dr. Nakadate" and "Paul" and "Dentist", which said names were not in typewriting but were in writing. In the original the paper was typewritten in approximately the same places where this copy is typewritten, and was in writing, and had the lines that I have delineated at the bottom of Government's Exhibit No. 3 for [231] identification.

Questions by the Court

(Witness continues): After I made this copy, I compared it with the original document from which I made it. When I say it is substantially a copy, I mean that the words and punctuation are exact with the original. The spelling, and so forth, is exact with the original. When I meant substantially, I meant it might not have been placed on the paper in the same form as the original.

ROY HANNA

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Neukom:

I reside in San Pedro, 523½ South Grand. I am a Chief Yeoman in the United States Navy and a Chief Yeoman does secretarial work, but I am

(Testimony of Roy Hanna.)

assigned to work in the Naval Intelligence Office at San Pedro. I have been there since March, 1935. At the present time I am employed in the Intelligence Office there. From 1935 to the present time I worked with the group of the Navy called the Naval Intelligence and during 1936, that is in August, 1936, I was then working with the same group at San Pedro. I was secretary in the office. Lt. Commander J. J. Roachefort, United States Navy, was commanding officer of that particular office. He is not the commanding officer at the present time. The present commanding officer is Lt. H. D. B. Clayborne.

Mr. Neukom: Your Honor, I might say that the remainder of this testimony, for a period of time, according to the theory of the Government, will only refer to the Defendant Salich.

Mr. Pacht: I take it that the District Attorney means that it is only offered as against the Defendant Salich, and that it is in no way offered as against the Defendants Gorin, or either of them, and is not binding upon them. [232]

Mr. Neukom: That is correct, your Honor.

The Court: Will you indicate to the jury and to the Court when you have concluded the introduction of that portion of the testimony which is applicable only to the Defendant Salich?

Mr. Neukom: I will.

(Witness continues): I first met the defendant Salich either the latter part of July, or the first part

(Testimony of Roy Hanna.)

of August, 1936. I met him in the office on Seventh Street, in the Cabrillo Theatre Building. That was the office of Naval Intelligence, which was then located on Seventh Street in the Cabrillo Theatre Building, and since then has moved to another office. Lt. Commander Roachefort, Commander Davis, Salich and myself were present when I first met Salich. Those gentlemen were connected with the United States Navy. Commander Davis was the District Intelligence Officer at that time; Lt. Commander J. J. Roachefort was the Assistant Naval Intelligence Officer. I don't know the exact time of this conversation, but it was in the morning. I overheard all of it.

Q. Will you relate to the jury the conversation that you overheard between Commander Davis, Commander Roachefort, and defendant Salich?

To which question defendant Gorin objected upon the grounds that even though it was not offered against him, it was all remote, and irrelevant, not to be binding, and that the relation of such conversation would bring before the jury matters which could not but be highly prejudicial, which said objection was overruled. Exception allowed.

The Court stated in overruling the objection as follows:

The Court: It is possible, of course, that evidence will be introduced during the course of the trial which may, in one instance, be applicable to one defendant—Salich, for instance—and at other

(Testimony of Roy Hanna.)

times evidence may be introduced which is applicable only to the [233] Defendant Gorin, or possibly to one of them. It is a common practice recognized by our courts, and unless an application is made properly within the provisions of the statutes and the rules for severance, and there is an indication to the court of the reasons why it would be extremely prejudicial, or would be sufficiently prejudicial, so that the court would be disposed to grant separate trials, we must necessarily proceed on this basis.

The defendant Salich objected upon the ground that it would not tend to prove or disprove any issue in the case and would be inflammatory and prejudicial, which objection was overruled. Exception allowed.

A. Commander Davis, when Salich came in the office, I was [234] introduced to Salich, and Commander Roachefort was introduced to Salich.

Q. A little louder so we can all hear you.

A. In the course of the conversation Lieutenant-Commander Roachefort told Salich what the office did and the —

Q. (Interrupting): Wait. Relate what he said.

A. Mr. Roachefort said that everything that Salieh did in the office, or outside of the office, was confidential, and that at no time was he to reveal anything that occurred in the office, to anyone on the outside, and in addition, he further instructed Salieh that he was not to tell any member of his family or his wife.

(Testimony of Roy Hanna.)*

Q. Did he tell him what position he was being employed in, or what position he was to fill?

A. He told him he was being employed as an investigator.

Q. For what?

A. For the Naval Intelligence.

Q. And did Mr. Salich say anything during that conversation, as you recall?

A. Mr. Salich asked whether or not he could obtain an identification card or some badge with which to work with on the outside.

Q. Did he state what type of a badge he wanted?

A. To identify himself with the Naval Intelligence or some other badge which would give him authority.

Q. What was told to him?

A. He said—Mr. Roachefort said—that the Navy, or the officers of the Naval Intelligence, did not issue any passes of any kind or badges or identification cards.

Q. Did he have any conversation with him at that time as to whether or not he was to disclose his identity, as you recall?

A. Mr. Roachefort told him that he would at that time not reveal that he was working for the Naval Intelligence. [235]

By Mr. Neukom:

Q. Do you recall to your best recollection the date in August of 1936 that this took place?

A. 15th of August, 1936.

(Testimony of Roy Hanna.)

Q. That is your best recollection?

A. That is right.

The defendant Gorin moved the Court to strike the whole of the conversation related by the witness between Commander Roachefort, Commander Davis, and Mr. Salich, upon the grounds theretofore urged in objection to the questions covering such conversation, and on the further grounds that the instructions which Commander Roachefort gave Salich and what he designated as secret and confidential, was incompetent and immaterial. Objection was overruled. Exception allowed.

The Court stated in overruling the objection as follows:

The Court: Gentlemen of the jury, I desire at this time to explain to you, very briefly, that this evidence that was introduced, or permitted to be introduced by the Court, is applicable only to the Defendant Salich, not as in any way binding upon, or applicable to the Defendants Gorin, either or both. It is not to be considered by you in any way as adding anything to the sections of the United States Code dealing with the offenses here charged.

No Navy officers, no counsel for the Defendant, or no counsel for the Government may read anything into those sections. The Congress makes the law, and the judge will interpret the law for you. The judge will tell you what the law is, and you are, by your oath, vowed to take that law.

(Testimony of Roy Hanna.)

If the Navy officers in any conversations, or any Navy officers in any conversations, or any other officers ever make a statement as to what he thinks the law is, in the course of the conversation, that is not in any way to be considered by you. You [236] take the law from no one but the Court. The Court will, at the proper time, just before you retire, review these sections of the Act and will explain to you what they mean and their applicability to this particular case.

The objections here made by counsel for the Defendants, that the conversations related might be interpreted by the jury as adding something to the law, was overruled by the Court, but the Court wishes to caution the jury that nothing in those conversations, or in any other conversations, that may be introduced by either the Government or the Defendant, is to be considered as adding anything to or reading anything into the United States Statute.

The defendant Salich moved to strike the whole of said conversation on the grounds that the evidence was too remote and had no tendency to prove or disprove the issues in the case. Objection overruled. Exception allowed.

(Witness continues): I received my compensation from the United States Navy. Subsequent to the conversation which I related I have been continuously employed with the Naval Intelligence up to and including the present date there at San Pedro.

(Testimony of Roy Hanna.)

Mr. Neukom:

The remaining portion of the conversation, or the testimony of the witness Roy Hanna, will deal with matters which we feel are binding upon all of the defendants.

(Witness continues): I was present, in another room, during the early part of the year 1938 when there was a conversation between Mr. Stanley, Commander Roachefort, Mr. Salich, in the office of the Naval Intelligence at San Pedro, with reference to a person by the name of Gorin. This was about the middle of March, 1938. [237] It was in the morning, before noon. There were present in the rooms in which this conversation took place, Commander Roachefort, Mr. Stanley, Salich and myself. In the set of offices there were two rooms, joined together. During this particular conversation the door of my room was open. This was in the new post office building on Beacon Street, on the first floor, what they call the basement floor. I was about seven or eight feet away from Mr. Salich, Commander Roachefort and Mr. Standley, when the conversation took place. I heard the whole of it.

Q. Will you recall the substance of the conversation, as you heard it, and in doing so, explain to the jury who was doing the talking.

To which question defendant Gorin objected on the ground that it was hearsay as to him, and that extra-judicial statements or declarations of Salich are incompetent, irrelevant and immaterial. That

(Testimony of Roy Hanna.)

there has been no proof of conspiracy, and that corpus delicti has not been established. Objection overruled. Exception allowed.

In overruling the objection the Court stated as follows:

The Court: The ordinary rules relating to the introduction of hearsay evidence are not, by the decisions of our courts of authority, applicable to conspiracy cases where a conspiracy is involved, because of the theory that the conspiracy is, in effect, a criminal partnership and declarations, statements and acts in connection with conspiracies done by one of the conspirators in furtherance of the conspiracy are binding upon all.

This is evidently in time proper so that it may be admitted. The objection, therefore, on that ground will be overruled.

On the ground that the gravamen of the offense, the conspiracy, has not been proved or, as has been stated, the corpus delicti has not been established, is a much more difficult problem upon which to rule. [238]

The Court is given, by the authoritative decisions, a very broad scope in the conduct of trials in the Federal Court, particularly in conspiracy trials, for the reason that it is almost impossible for either the Government or the defense to put on all of their case at one time. It must be done piecemeal.

Now, either the conspiracy is going to be established by evidence sufficient so that the existence or

(Testimony of Roy Hanna.)

non-existence thereof will be submitted to the jury, or it is not. If it is not, no harm can come to the defendants. If it is established, no harm can likewise come by the fact that the proof may be somewhat out of order.

Defendant Salich objected on the ground that there has been no proof of a corpus delicti, no proof of the conspiracy, and that the extra-judicial statements of Salich were not to be used against him at that time. Objection overruled. Exception allowed.

A. Salich told Commander Roachefort that he had contacted Mr. Gorin, and that Mr. Gorin had offered him certain moneys. He asked Commander Roachefort whether or not he should continue to contact Mr. Gorin. Commander Roachefort told Salich not to contact Gorin more and that if he did he would have Stanley with him.

(Witness continues): I know Mr. Salich and Mr. Stanley. Mr. Stanley is likewise an investigator with the same office with which Mr. Salich was working. The conversation I related took place, as I recall, in March of 1938. [239] I have observed Mr. Salich in the office of the Naval Intelligence there at San Pedro when the offices were closed. There was an occasion when I was present in the office of the Naval Intelligence at San Pedro on a Saturday morning when the office was closed and when, upon my entry into the offices, I saw Mr. Salich there. I can't place the time now. It was in the latter part, I would say, around August or

(Testimony of Roy Hanna.)

September, 1937. The door was unlocked at that particular time. At that particular time it was customary for the office to be closed on Saturday morning. We moved to the new office some time in November, 1936. Mr. Salich had gone to work in August of 1936 over at the old office above the Cabrillo Theatre Building. The office of the Naval Intelligence, about September 15, 1937, consisted of two rooms. Both of them were about twenty-five by twenty. They had a connecting door. The officer in charge, in his room, are two safes, his desk and maps on the wall; and in my room I have my desk, filing cabinet and two other cabinets which contain supplies. One of the safes of the room of the officer in charge is about five feet tall, about four feet wide. It has two time locks, clocks, inside. When the office is closed at four o'clock they are set until the following morning at eight o'clock when the office is again opened. The officer in charge has access to the smaller safe. The officer in charge is Lt. H. D. B. Clayborne, and prior to that was Lt. Commander J. J. Roachefort. Mr. Salich did not have a desk in one of those two offices from September of 1937 until about the middle of December, 1938. There was a connecting door between the offices. There was a grill on the outside of the windows and a grill on the inside covered with a screen. When we left the offices at night they were locked and no one else had access to the building other than the two investigators, Mr. Salich and Mr. Stanley, Lt. Clayborne,

(Testimony of Roy Hanna.)

and myself. That includes all of the personnel of this particular office. There is a watchman over the building at night. He makes a patrol every thirty minutes. [240]

Q. At any time after September of 1937, were you ever present in the office of the Naval Intelligence, San Pedro, when the Defendant Salich was likewise present and the small safe to which the Commander of the Office had access, was slightly ajar? Now answer either yes or no.

To which objection was made by the defendant Salich upon the ground that it was immaterial and irrelevant and not within the terms of the indictment or bill of particulars. Objection overruled. Exception allowed.

Q. Now, do you recall approximately what date this was?

A. I would say it was either September or October. I couldn't give you the date.

Q. Of 1937? A. 1937.

Q. Was anyone else present in the room where this safe was besides Mr. Salich?

A. I was there with Mr. Salich.

Q. And did you leave the room for any length of time?

A. I would say about four or five minutes.

Q. And when you returned, was anyone else present in the room besides Mr. Salich?

A. No one.

(Testimony of Roy Hanna.)

Q. Did you observe who was in the room when you returned? A. Yes, Salich was there.

Q. Nobody else? A. Nobody else.

Q. Did you observe the condition of the safe, the small safe, when you returned?

A. The door was opened much wider.

Q. Did you have any conversation with Mr. Salich with respect to that situation? [241]

A. I did not mention it to him.

Defendant Salich moved to strike the testimony of said witness last objected to on the ground that there was no proof that Mr. Salich took anything out of the safe and no proof that his actions were other than as behooved a member of the Naval Intelligence Service in the course of the duties, and that the whole line of testimony was highly prejudicial. Motion denied. Exception allowed.

Cross Examination

By Mr. Stone:

When I was describing the conditions of the office in September of 1937, and was describing those two rooms, that was the second office in the Federal Building. I don't remember the exact date when we moved into that office. I think it was the early part of 1937. That is the office which we now occupy in the Federal Building in San Pedro, and that is on the first floor. Our earlier office there had been on the second floor. We moved into that office in November, 1936, and stayed there until March,

(Testimony of Roy Hanna.)

1937. At the time Mr. Salich was first hired as an investigator for the Naval Intelligence Service we were in the old Cabrillo Theatre Building in San Pedro on the second floor where we had two rooms. It is that room that Mr. Salich first came into when he was first introduced into the office as a new member. Those rooms were about fifteen by fifteen, possibly a little bit bigger, one of them. The other was a little smaller, ten by ten. The main office was fifteen by fifteen, I mean the office of Commanding Officer Roachefort. I was in Lt. Commander Roachefort's office. In this other smaller office we had a desk and filing cabinet. It was more or less of a waiting room and a general catch-all. At the time that Mr. Salich first walked into the office as a new investigator I was working at my desk right across from Commander Roachefort. [242] There were two entrances, one was into the hallway, and one was to another office, the branch hydrographic office. These doors were at angles to each other. Each door was approximately in the middle of each wall. Commander Roachefort's desk was alongside of mine, I was facing him. They were in the center of the room with their backs facing each other so that when I sat at my desk and Commander Roachefort sat at his we would face each other. Both of us were at our desks that day. Nobody else was in the room when Mr. Salich came in. He came in with Commander Davis, who was the District Intelligence Officer in charge of the main office at San

(Testimony of Roy Hanna.)

Diego, and he was stationed generally in San Diego where his office was. He came up to San Pedro occasionally to supervise the work. This was probably about ten o'clock in the morning. A Chief Yeoman does secretarial work. That includes stenography, typing, bookkeeping, filing; general supervision of the office. I have had the rank about five years. I have been associated with intelligence work since March 23, 1935, stationed all that time in San Pedro. My pay check is a United States Treasury pay check, issued at San Diego, and it indicates the enlisted man's payroll. My pay check came from the Riegel, which is the office of the Supply Corps. The Riegel is a receiving ship. I came from the U. S. S. Pennsylvania. When I transferred from the U. S. S. Pennsylvania my accounts and records were sent to San Diego. The Riegel received my pay account. My records were retained by the Commandant in the Eleventh Naval District, in the personnel office. At the time I was transferred to the San Pedro office I had specific orders from the Chief of the Bureau of Navigation. My orders read, From the Chief of the Bureau of Navigation to report to the Commandant of the Eleventh Naval District for further transfer to whatever duty the Commandant might want me to go to. When I reported to the Commandant, I was told to report to Lt. A. H. McCullom, United States Navy, who was then the officer of the Naval Intelligence Office in San Pedro. That order [243] was

(Testimony of Roy Hanna.)

given to me orally. The usual practice when reports were turned in to the San Pedro office by Mr. Salich and Mr. Stanley, referring now to Salich, when he came to the office, he usually used my typewriter to write up his reports. Sometimes he wrote them in duplicate; sometimes just on one piece of paper. These reports were turned over to me or were turned over to the officer in charge. Whatever information was contained in the report was digested and evaluated and placed in its proper place. The original report turned in by Mr. Salich was destroyed after we had taken the report from him. The report would be taken either by me or the officer in charge. I made an original, three yellows and one green. The green and one yellow was retained in the office. The other three were forwarded down to San Diego. The yellow was kept in chronological order, and was kept in my desk. The green was placed in the filing system in the files. I just had a lock on it and sometimes was kept locked, sometimes it was not. No orders were given to me in that regard. Mr. Stanley and Mr. Salich were the investigators. Previous to Mr. Stanley we had another investigator. Mr. Stanley and Mr. Salich did most of the investigating work. They were expected to carry out the orders that were issued to them by the officer in charge. The instructions they had received upon their employment were that they were expected to keep in mind the work which was being done and which had been done. To do

(Testimony of Roy Hanna.)

that they would sometimes refer back to the previous reports which they had turned in for continuity. If the information was insufficient in the yellow onion skin file which was kept in my desk, the information had to be obtained from the safe. They were expected to go to my desk for that yellow onion skin file occasionally to keep in touch with the work they had done in the past. My desk was kept unlocked for that purpose. When Mr. Salich and Mr. Stanley came to the office each day, they would turn to the yellow onion skin file and check on it each day as a matter of course. The Commander in charge of the [244] Naval Intelligence Service Office in San Pedro, myself, Mr. Stanley and Mr. Salich all had keys to the office. That was our headquarters for our work as members of the United States Naval Intelligence Service. They had orders to report certain days to the office. If the office was locked for any reason, they were expected to use their keys to go in for that purpose. The office was kept unlocked from eight o'clock in the morning to four o'clock in the afternoon all days of the week, Monday, inclusive of Friday. They were not expected to come in on Saturday morning and type up a report. The orders never included that they had to report Saturday unless they were so specifically told. There were no orders that I know of that they were not to go to the office on Saturday. Occasionally I would come into the office on Saturday. The small safe was unlocked when Mr.

(Testimony of Roy Hanna.)

Roachefort or the officer in charge, Mr. Clayborne, was present. I don't remember what day of the week it was on the occasion to which I testified the small safe was open. It was around, September, October, of 1937. That was in the period when Commander Roachefort was in charge of the station. During the two years that Mr. Salich was connected with the Naval Intelligence Service the safe was opened every time the officer in charge came in and opened it. This may have happened three or four times a day, or it may have happened once a day. Commander Roachefort was not present at the time the occurrence to which I testified happened. He was out at the time. He only opened it and stepped out of the office when I was present. That had happened before. I did not say anything to Mr. Salich about this occurrence. I believe Mr. Salich had opened the safe. At that time I believed he had gone to the safe. What he was doing there, I don't know. The safe door was about four or five inches ajar when I left the room on that occasion. I did not examine the safe when I returned to the room. Mr. Salich remained in the room until about 10:30 or about 11:00 o'clock, about an hour and a half after I returned. Shortly after I returned to [245] the room, Commander Roachefort returned. He did not examine the safe in my presence.

Mr. Stone: Your Honor, I should like again to move to strike all testimony of Mr. Hanna with regard to this safe. The matter, as shown on cross

(Testimony of Roy Hanna.)

examination, Mr. Hanna didn't examine the safe. He had no reason to believe that Mr. Salich had taken anything from the safe. He said nothing to Mr. Salich about it at the time. There is no possible admission which can be drawn from such testimony, if that was the purpose of the Government in asking it, and I believe that is highly prejudicial and should be stricken, and the jury should be admonished to disregard it.

The Court: The motion will be denied, and in fairness to counsel, possibly the attitude of the Court should be explained in the presence of the jury.

The objections made, gentlemen, seem to the Court to go to the weight of the evidence rather than as to its materiality to the case. It is but an isolated item in possibly a long chain of proof. It certainly is no evidence that any papers were taken out of that desk. It apparently is not being introduced with that purpose in mind. It may seem to you to be evidence for the purpose of illustration to indicate the accessibility of these papers to the Defendant Salich.

The motion to strike will be denied and an exception allowed.

(Witness continues) The conversation which occurred in March of 1938 between Commander Roachefort and Mr. Salich in regard to the defendant Mikhail Gorin, took place in the office on the first floor of the Federal Building in San Pedro. I was in the adjacent room where my desk was. In

(Testimony of Roy Hanna.)

the room of the commanding officer were Commander Roachefort, Mr. Stanley and Salich. I was alone in the outer room. I would say it was the first of the month [246] or the middle of the month, March, 1938. I remember the particular morning rather well. I had come to work at eight o'clock in the morning, the usual time. Commander Roachefort arrived between 8:30 and 9:00 o'clock. Neither Mr. Stanley nor Mr. Salich had come in at that time. They came in together. They usually came in at nine o'clock or a little bit before. My duties every day are to be the chief clerk in the office, to take dictation, typewriting, filing. I don't know whether I was engaged in those duties that morning or not; but I was in the office. I was sitting at my desk. Commander Roachefort had looked through his mail first, which might take between ten or fifteen minutes; then when he got through with that he called Mr. Stanley and Mr. Salich in. They went in together. I was in and out while Commander Roachefort was looking through his mail. He had not been dictating answers to me. They went into the room, and I was sitting at my desk. I was not engaged in typing; I was reading a newspaper. I couldn't help but overhear everything that was said in there, because it was very close. I would say that it would take no more than ten minutes to carry on that conversation. I had no particular reason to feel that something significant was going on in the room at that time. If the door was open

(Testimony of Roy Hanna.)

I could hear all conversation that was going on in that room. The door was open in its complete entirety, way back against the wall as you open the door. The first to bring up the name of Gorin was Salich. He told Mr. Roachefort that he had contacted Mr. Gorin; that Mr. Gorin had made a proposition to him, and he wanted to know what Mr. Roachefort thought about it. I wouldn't say those were his exact words, but that was the general tenor of the conversation. I cannot repeat the exact words. When Mr. Salich first became an investigator of the Naval Intelligence Service, in August, 1936, referring to the conversation at that time, I do not remember the exact words, but I remember the tenor of the instructions that were given Mr. Salich. [247] Those instructions were given orally. The occasion was one which particularly fixed itself on my mind, because I had the same orders issued to me. On three occasions during the years I have been associated with the Naval Intelligence Service in San Pedro new investigators have been brought in and given those orders. Each one of them has strongly impressed itself on my memory, the same instructions were issued. The first one we hired was in the month of July, 1935. The second one we hired was the latter part of 1935. The third one was employed the early part of 1936. The instructions given to Mr. Salich was the fourth time that I have heard them after my connection there with that service. There were three previous to Mr. Salich.

(Testimony of Roy Hanna.)

There was a small coffee shop near the corner where I and the investigators from the Naval Intelligence Service used to go for a cup of coffee in the mornings occasionally. That was about a half a block from the office of the Naval Intelligence Service. Sometimes we went there frequently; sometimes we didn't. Sometimes I went alone; sometimes Salich went alone; sometimes Stanley went there alone. I don't remember any occasion when Mr. Salich and I went to that coffee shop and when in our conversation the name of Mr. Gorin was mentioned. I remember no occasion where I said to Mr. Salich that he would not care to lunch at this coffee shop after lunching in higher class places with Mr. Gorin. There was no such conversation in my presence.

Cross Examination

Mr. Pacht:

The incident I related concerning the safe, took place in September or October of 1937. This was in the new Post Office building in San Pedro, in our office. The safe had been opened by Lt. Commander Roachefort, who was the officer in charge. I am without knowledge in regard to whether he had taken some papers out or put some papers in. I then left the office. Salich was there. [248] I was gone about four or five minutes. I have a very distinct recollection of having made an observation of the safe door before I left. It was open about six inches. When I came back it was open about three-

(Testimony of Roy Hanna.)

quarters of the way. It was open about two feet, twenty-four inches, more when I returned than it was open when I left. If I said on direct examination that the difference that the safe door was open when I returned than what it was when I left the office was four to six inches, I was in error. It was about two feet more ajar when I came back than when I left. I was curious as to why it was opened so wide. It appeared suspicious to me. Knowing that Mr. Salich was the only man who remained in the room when I left, the thought entered my mind that Mr. Salich had been to the safe. I meant to say that I became suspicious that in my absence from the room Mr. Salich had been to the safe. My thought at that time was why he went to the safe. I didn't know whether he was in the safe. It did not enter my mind that he had taken some things out of the safe. I don't know what he was doing there, but I was convinced that he had done something which he shouldn't have done. Lt. Commander J. J. Roachefort was my superior officer at the time. I never made a report of that incident to him. I did not type a report of it. I did not tell anybody anything about it. I first told this in the District Attorney's office about a week and a half ago. That was the first time I had mentioned it to anybody. I told it to Lieutenant Clayborne. Mr. Harrison and Mr. Neukom were present. At the conversation which I related between Mr. Salich and Commander Roachefort, Mr. Salich did not say that he had seen

(Testimony of Roy Hanna.)

Mr. Gorin pursuant to the Commandant's instructions. He said that he had contacted Mr. Gorin, and that Mr. Gorin had made him a proposition. Mr. Roachefort told him not to contact Mr. Gorin, nor accept any proposition, and that if he was to contact Gorin, that Stanley would be present. That is all I heard of the conversation. It took place about seven or eight [249] feet from where I was sitting at my desk reading a newspaper. I might have been working a crossword puzzle. I didn't say I was working a crossword puzzle, I said I might have been. I heard the entire conversation between Commander Roachefort and Mr. Salich. I couldn't have missed part of what was said. I am positive that what I have related is the only thing that was said. I distinctly recall that Mr. Salich did not say "I contacted Mr. Gorin as per your instructions, or as you told me." It might not have been said while I was occupied looking at this crossword puzzle or working it; it wouldn't have been said without me hearing it. No one told me that no such instructions were given to Mr. Salich. All instructions that Mr. Roachefort had given, he would relate them to me, or did it in my presence. Mr. Roachefort could have spoken to Mr. Salich out of my presence. I have never heard him give these instructions. I made a report of this conversation. I have not got it. It is missing. There was no number on the report. I put it in the file, in the big case file, the regular filing index. That was at the time of the occurrence. I

(Testimony of Roy Hanna.)

first missed it when I was instructed to look in the files for it. I don't remember the exact date, it was around the first week of February, 1939. I made just an original of this report and put it in the file under an alphabetical heading, Salich; under his name. I made this examination the first part of February. Mr. Clayborne was present. I did not misfile it originally.

Redirect Examination

By Mr. Neukom:

The report that Commander Roachefort dictated to me subsequent to the conversation of March, 1938, was placed on the card and put in the index filing system. There was a file there that contained other matters or information with respect to the defendant Salich himself. That file was not there either. I tried to locate that file in the offices of the Naval Intelligence; we have searched everywhere and cannot find it. I have attempted to relate the [250] substance rather than the exact words of the conversation in March, 1938, when Salich, Roachefort and Stanley were all present in the office of the Naval Intelligence. All I heard that Salich had said was that Gorin had offered him a proposition, that is all I recall. With respect to this small safe, upon the occasion when it was opened about six inches and when I returned to the room open about twenty-four inches, in September or October of 1937, I did not have the combination of that safe.

(Testimony of Roy Hanna.)

Lt. Commander Roachefort had it. I don't believe that any of the investigators had the combination to that safe; I don't know. It is opened by a combination, by twisting of the dial. I have never seen Salich endeavor to open that safe. The larger safe which is in the office is where we keep the reports and cards. The one which was ajar the day that I stated is about four feet high and three feet wide. I stated that three reports are sent to San Diego, and two reports are kept in the office at San Pedro; that is, the finished reports. They were sent to the Commandant of the Eleventh Naval District at San Diego. Some of them were addressed to a particular office, some were not. These were the finished reports of the office. To explain, either of the men were sent out on investigation. They would compile the report and bring it to the office. They either wrote it out in longhand or one of them would sit at the typewriter and typewrite it. Sometimes a copy and an original was made on the green and yellow. This green was turned over to the officer in charge, and the yellow was turned over to me. Sometimes one of the investigators would write his reports at home. Whether he made copies of them at home, I do not know; but he would bring them typewritten to the office. The reports prepared by the investigator did not have a number assigned to them. The information contained in the report was turned over to the officer in charge, who evaluated and digested it, and either dictated the report or he

(Testimony of Roy Hanna.)

handed it to me to write up the report in its entirety as it was reported by the [251] investigator. And that was put in a final draft and it was given a number, a chronological number. The rough draft or the final report of the investigators, when the reports were completed, were destroyed. We put them in a wastebasket, and at the closing hour, at four o'clock, I would take it to the boiler room and I would supervise the burning of these papers in the presence of the janitor. This procedure was taken over and done when Lt. Clayborne took over the office. This was the first part of June, 1938. Salich was working there at that time. Lt. Commander Roachefort, at the present time, is on the U. S. S. New Orleans, at Guantnamo Bay.

Recross Examination

By Mr. Pacht:

Commander Roachefort dictated a general report of the conversation he had with Salich, of what Salich told him with reference to being contacted or propositioned by Gorin. I transcribed it on the typewriter. I made just the original. No copies were made. When investigators made their reports to Commander Roachefort, he digested them and dictated his report, the numbered report, I made an original, four yellows and one green. I don't know when Salich got this proposition from Gorin. The conversation took place in March. At that time, if Mr. Salich, was sent out by his supe-

(Testimony of Roy Hanna.)

prior to see that John Jones was registered at the Ambassador Hotel, he would come back with a report. Normally it would be in writing. He would turn that over to Commander Roachefort, who would look at his memorandum and see what there was in it, and if he thought it was of any importance he would, in turn, dictate a report to me. His name would not necessarily be signed at the bottom of that report. Sometimes his name was left off, and sometimes put on. An original, four yellows and one green would be made of that report. The original and three yellows were sent to San Diego. The green copy was put in the filing system. The yellow was put where the other numerical yellows were. They were put consecutively. It was called a numerical [252] file. They were not sent to Washington, D. C. They were all sent to San Diego. I am not sure whether or not the San Diego office in turn transmitted a copy to Washington. Before any of those reports were sent out, they were given a number. In March of 1938 when Mr. Salich came in and told Commander Roachefort in substance, "I have contacted Gorin, and he has made me a proposition," he did not say what kind of a proposition. He just told him that Gorin had made a proposition to him. He said Gorin was in charge of the Intourist, Inc., or Incorporated. Then Mr. Roachefort told him not to contact Mr. Gorin any more. He said he didn't want to have anything to do with the proposition. I don't know whether the proposi-

(Testimony of Roy Hanna.)

tion was one involving money. Money was not mentioned. I have related everything that was said on that occasion as far as I can remember. After the conversation took place, Commander Roachefort called me in the office and said, "I have a report I want to dictate to you." He dictated the report of the conversation that they had between Salich, Stanley and Mr. Roachefort as I have related it here. He told me to put that on the card, 5x8 card, a card index file, and told me to make but one copy of it. I filed it in the file which was kept in the big safe, that is the safe which had a time lock on it. I filed it away the same day, I know the combination to the time lock. I cause it to be opened and closed. I am not the only one; Lt. Clayborne can open and close it. We were the only ones. When I put this original away in the time safe in March of 1938, I didn't look for it again until the first part of February, 1939. In March, 1938, we had a file on Mr. Gorin, that had been gathered for some time prior thereto. I first discussed the matter with an agent of the Federal Bureau of Investigation about a week and a half ago. I had no discussion with anyone connected with the Federal Bureau of Investigation, shortly after the arrest of Mr. Gorin, about December 21. I did not talk to anyone connected with the District Attorney's office shortly after the arrest of Mr. Gorin. The first time I [253] discussed anything relative to Mr. Salich or Mr. Gorin or their respective activities was some week

(Testimony of Roy Hanna.)

or ten days ago, and that was with Mr. Neukom in the District Attorney's office. Mr. Harrison was also there; as was Lt. Clayborne and Commander Zacharias.

Recross Examination :

By Mr. Stone:

I was first introduced to Mr. Salich about the 15th of August, 1936, which is the first day I met him. I don't remember ever seeing him before. I would say he came in between 9:30 and 10:00 o'clock, somewhere like that. Lt. Commander Roachefort was there also. Mr. Salich came into the office with Commander Davis, and Commander Davis was the man who introduced me to him. There is no possibility of my being mistaken, and there is no possibility of my being mistaken about the instructions that were given to Salich. I know of no occasion when papers in the Naval Intelligence Service office were shown to one who was not a member of the United States Naval Intelligence Service. I don't believe I ever said anything to Mr. Salich about such an occasion nor have I heard of any such. I wouldn't remember the last time I saw the file on Mr. Salich which was kept in the office, but I remember the last time I looked for it, that was around the first of February, 1939. I never look at the safe file unless there is occasion for it, and I wouldn't remember just when I looked for it. There might have been an occasion to look for it at the time of Mr. Salich's arrest, but I don't remem-

(Testimony of Roy Hanna.)

ber looking for it at that time. It may be possible I saw it at that time. I have not seen it since that time. As clerk and Chief Yeoman in the office, I handle the correspondence. I don't believe there was any correspondence relating to Mr. Salich at or about the time of his arrest. I would have to check the files in order to answer whether there was correspondence relating to Mr. Salich after the time of his arrest. If there was such correspondence, it would be filed under his name; in the same file in which this note was placed, I am referring [254] to the stenographic notes concerning which I testified yesterday of the conversation between Mr. Stanley, Commander Roachefort and Mr. Salich. I overheard the whole of that conversation and was paying attention to it. Mr. Salich did not say that he had contacted Mr. Gorin in response to Commander Roachefort's suggestion or order. Salich asked Commander Roachefort whether he should continue the contact with Mr. Gorin. Commander Roachefort did not say "That is a good contact for you." Salich did not speak to me at any subsequent time concerning Mr. Gorin.

Recross Examination

By Mr. Pacht:

I read about Mr. Salich's arrest when it occurred; I read it in the newspaper. I read about Gorin's arrest when it occurred. Their arrest was a matter of some interest to me by reason of the fact

(Testimony of Roy Hanna.)

I was connected with the Naval Intelligence and Salich was connected with it. I did not discuss their arrest with Commander Clayborne. I occupied the same office that he did and saw him practically the whole of each working day. I did not discuss the arrest of Salich or Gorin with Commander Roachefort, and nothing was said between us about the fact that Mr. Salich, a man in our department, had been arrested for revealing secrets of the Naval Intelligence. I did not tell either Commander Roachefort or Commander Clayborne the incident about the safe door being ajar more than it should have been. Commander Clayborne did not discuss with me the matter of the arrest of Salich.

H. L. STANLEY

being called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

I live at 245 South Oakhurst Drive, Beverly Hills. I am an investigator for the Naval Intelligence and have been so employed [255] since April 1, 1937. I am an officer in the Naval Reserves, and have been such for four years. Before that time I had no connection with the Navy. I worked out of the San Pedro during the entire time. My com-

(Testimony of H. L. Stanley.)

manding officer was Lt. Commander J. J. Roachefort and Lt. Clayborne. I know the defendant Salich and first became acquainted with him the first part of April, 1937. I met him in the office of the Naval Intelligence at San Pedro. Since that time we were together five days a week from then on until December 10th, except on occasion when he or myself would be on leave. We were together in an automobile most of the time covering the territory from Laguna Beach to Santa Barbara. After working hours occasionally we would go out together. I visited at his place of residence every day practically. We had an apartment at 854 South Harvard Boulevard which we used jointly about ten or eleven months. It was his apartment. He lived in it and we used it to telephone from and conduct a lot of our investigations from there. It was centrally located to downtown while I lived in Beverly Hills and we would go to his apartment in the afternoons and discuss our business. He paid the rent for the first nine or ten months, and the last three or four months he got an apartment that was a little larger and I paid the difference between what he was paying and the new rent. We dined together very often during working hours. We did not have any regular working hours. I discussed Mr. Gorin with Salich. The first conversation I had with him concerning Gorin was shortly after I went to work for the Naval Intelligence. I would

(Testimony of H. L. Stanley.)

say that was in May or June of 1937. Just the two of us were present.

Q. Just relate the substance of the conversation at that time.

To which question defendant Gorin objected upon the grounds that it was hearsay and antedated any act charged in the indictment or in the bill of particulars and that no conspiracy had [256] been proven and that it was immaterial and irrelevant for any purpose. Objection overruled. Exception allowed.

The Witness: He told me he had a Russian friend named Gorin who may be a good informant for us.

By Mr. Harrison:

Q. Was that the substance of the conversation at that time? A. Yes, sir.

Q. Did you thereafter have any other conversations with the defendant Salich concerning Gorin?

A. Yes, sir.

Q. And about when was this?

A. I believe it was in July of '37, when the Russian flyers flew from Russia to Oakland non-stop.

Q. Who was present?

A. Mr. Salich and myself.

Q. Will you tell us the substance of that conversation?

Mr. Pacht: I make the same objection to that which I did to the previous question, and sepa-

(Testimony of H. L. Stanley.)

rately make the objection on behalf of the defendant Natasha Gorin, and separately as against the defendant Mikhail Gorin, and for like reasons.

The Court: I understand the same objection is made, and the same ruling will be made, and an exception allowed as to the ruling.

A. He asked me, would I like to see the Russian flyers.

By Mr. Harrison:

Q. Is that all that was said?

A. I told him I would.

Q. What else was said?

A. He said, "We will drive over to Gorin's house. They are over there." [257]

We drove to the house and went up on the porch and rang the bell and the door was answered by a girl who told us we could'nt—

Q. (Interrupting) Just a moment. You can't say any conversation that was said at that time. Did you see Gorin at that time?

A. No, sir.

Q. And when I say "Gorin" I mean the defendant Mr. Gorin. A. I did not.

Q. Did you thereafter have any further conversation with Salich concerning either Mr. or Mrs. Gorin? A. In December—

Q. (Interrupting) Will you answer that question yes or no. A. Yes.

Q. And where?

(Testimony of H. L. Stanley.)

A. In the automobile.

Q. When you say "The automobile," whose automobile was that?

A. Sometimes it was his, sometimes it was mine.

Q. And who was present?

A. Salich, and a friend of mine from Porto Rico, who was visiting me, and myself.

Q. And you fix that date as when?

A. It is either the last week in December of '37 or the first of January, '38.

Q. Will you give us the substance of that conversation?

Mr. Pacht: May I make the same objection to that conversation which I did to the two previous conversations and the two previous questions, as to the defendant Mikhail Gorin? [258]

The Court: The objection as to Mr. Gorin will be overruled and an exception allowed.

By Mr. Harrison:

Q. Will you give us the substance of this conversation, Mr. Stanley?

A. Salich asked me to ride out to Gorin's home with him.

Q. Is that all that was said?

A. He may have given me the reason at the time, but I don't recall it.

(Witness continues) We went out to Mr. Gorin's home at that time. That was at 461 South Ardmore, it may have been 451. I know it is in the 400

(Testimony of H. L. Stanley.)

block on the west side of the street. When we got out there Mr. Salich asked me to wait in the car and he alighted and went up on the front porch and rang the bell. Just at that time Mr. Gorin was coming out the door and they walked down the path together and Mr. Gorin walked over and got in his car and Salich come and got in our car. I did not overhear any conversation at that time. Mr. Salich got back in the car with me and we went on our way. He said that Mr. Gorin had an appointment and couldn't spend any time with him. Thereafter I had a further conversation with Salich concerning the defendant Gorin. It was the latter part of February or the first of March, 1938; in the automobile; just Mr. Salich and myself being present.

Q. Will you give us the substance of that conversation?

To which objection was made by defendant Gorin upon the same grounds stated in the objections to the series of conversations. Objection overruled. Exception allowed.

The Witness: Salich told me that he had dinner with Mr. Gorin the night previous and that Mr. Gorin had offered him \$30 or \$40 a month to turn over certain information from the Navy [259] Intelligence files to Mr. Gorin.

By Mr. Harrison:

Q. Where did he say he had this dinner?

(Testimony of H. L. Stanley.)

A. Perino's on Wilshire Boulevard.

Q. Was that all that was said by either you or Mr. Gorin at that time?

A. Mr. Salich?

Q. Mr. Salich?

A. No, he asked me what my idea of the proposition was and I told him I didn't like it on account of the confidential nature of our business. I thought it was dynamite to play with it and I advised him to tell Mr. Roachefort, who was then our commanding officer.

Q. What, if anything, did Mr. Salich reply to that?

A. There wasn't much said on it from then on down to San Pedro.

(Witness continues) Thereafter I had further conversation with Mr. Salich in which Mr. Gorin was discussed. That was about three or four days after the last conversation; in February or March, 1938. It took place in the automobile, there being present Mr. Salich and myself.

Q. And will you give us the substance of that conversation?

Mr. Pacht: And I object to it as to the defendant Mikhail Gorin for the same reasons assigned in my previous objections to other conversations just related by the witness.

The Court: The objection is overruled and an exception allowed.

(Testimony of H. L. Stanley.)

The Witness: Salich said he had been thinking over the proposition that Mr. Gorin had given him, and he thought it would be quite all right to take this money. To the best of my knowledge at [260] this time, I told him at that time, "If you don't tell the boss about this, I am going to tell him."

By Mr. Harrison:

Q. What did Mr. Salich answer to that?

A. He sort of quieted down about it. I don't think he said much about it.

Q. Did he say anything further, do you recall?

A. No, I don't believe so. We drove on down to the office at San Pedro.

(Witness continues) There was further conversation at the office in San Pedro relative to Gorin. There were present Mr. Roachefort, Mr. Hanna and myself; Mr. Salich. I believe it would be around the first of March, the first week in March, '38. The conversation I had in the car in which Salich told me that he thought Gorin's proposition was all right, was the second conversation. That was, I would say, the first week in March. It was three or four days after the first conversation. Then I had a third conversation in the office of Mr. Roachefort, which occurred the same day as the second conversation.

Q. Now, will you give us the substance of the conversation and discussion that you people had in

(Testimony of H. L. Stanley.)

the Naval Intelligence Office in San Pedro where all four of you were present, as you have indicated?

Mr. Pacht: And for the reasons which I assigned in my previous objections on behalf of Mikhail Gorin, I object to this question, as to him, for similar reasons.

The Court: The same ruling and an exception allowed.

The Witness: Mr. Roachefort was sitting at his desk in the room and Mr. Salich and myself were standing opposite his desk and Mr. Salich told Mr. Roachefort that he had been approached by Mr. Gorin with a proposition to turn over certain information to [261] Mr. Gorin.

By Mr. Harrison:

Q. And what was said by either you or Mr. Roachefort in the presence of Mr. Salich?

A. I had nothing to say. Mr. Roachefort told Mr. Salich that he didn't want to contact Mr. Gorin again unless I was with him.

Q. Did you have any further conversation after that with Mr. Salich concerning Mr. Gorin?

A. Yes, sir.

Q. And about when was that in relation to the fourth one I think you have described?

A. That morning when we left the office.

Q. And who was present?

A. Mr. Salich and myself.

Q. Where were you?

(Testimony of H. L. Stanley.)

A. In the automobile coming up from San Pedro.

Q. And what was said at that time?

Mr. Pacht: And for the same reasons heretofore assigned for my objections on behalf of Mikhail Gorin, I object to this question as well.

The Court: The objection is overruled and an exception allowed.

The Witness: Salich said that, "I won't introduce you to Gorin. He is too smart to have anything to say in front of you." He said, "Furthermore, he has offered me \$3,000 or \$4,000 to steal the code book out of the Japanese Consulate Office in Los Angeles."

The Court: Gentlemen of the jury, you are to ignore that statement with regard to the Code Book and the Japanese Embassy in so far as it affects the defendants Mr. and Mrs. Gorin. You are to take it into consideration in so far as it affects the defendant Salich. [262]

(Witness continues) Thereafter I had further conversations with Salich concerning Mr. Gorin, on several occasions, both in the apartment and the automobile. It would be within the next two months after the last; that would be the latter part of April or some time in May, 1938. I cannot fix the time of the first conversation in the apartment any closer. When I mentioned apartment, I meant Mr. Salich's apartment located at 854 South Harvard.

(Testimony of H. L. Stanley.)

On several occasions I have heard him talk with Mr. Gorin, talk in Russian on the phone, and I would ask him who it was and he would say it was Mr. Gorin. I would say this occurred on three or four occasions. Salich said to me, after holding said conversations, that he had talked with Gorin. He wanted to meet him and he wasn't going to. I knew they were talking in Russian because I knew Mr. Salich spoke Russian very well. I didn't understand the language myself. These conversations were just a few minutes long. I heard him address someone over the telephone by the name Mikhail. I never heard him address anybody as Natasha. I had conversations with Mr. Salich relative to the confidential nature of the work that we were doing. I do not remember when we had the first conversation. I can recall one specifically; when Mr. Salich and myself were together in the automobile on the way to San Pedro. It would be the latter part of February or the first part of March, 1938. On our trip to San Pedro, Mr. Salich told me that he had dinner at Perino's with Mr. Gorin, and Mr. Gorin had offered him \$30 to \$40 a month to turn certain information over to Mr. Gorin. He wanted my opinion, and I told him I thought it was on account of the confidential nature of our work that he was playing with dynamite. I have had many discussions with Mr. Salich relative to the nature of our work. I have been present when statements

(Testimony of H. L. Stanley.)

were made in the presence and hearing of Mr. Salich concerning the nature of the work that he was doing. This was during the year of 1938, up until June; we were meeting once a month—that is, I say “we”, I mean the Navy Intelligence Unit [263] at San Pedro. There were present Mr. Roachefort, the Commanding Officer, Mr. Salich, Mr. Hanna, about fourteen or fifteen reserve officers who were attached to the Intelligence Unit, and myself. Commander Zacharias, Lt. Commander J. J. Roachefort, were the persons who made such statements at these meetings in the presence of Mr. Salich.

Mr. Stone: If your Honor please, may the record show simply that an objection was made on behalf of Mr. Salich, for the purposes of the record?

The Court: The objection may be entered, and overruled.

A. I don't believe I quite understand.

By Mr. Harrison:

Q. I am referring to the statement that was made in the presence of Mr. Salich by either Lieutenant Roachefort or Commander Zacharias concerning the nature of the work that you and he were doing. Tell us what was said, and not what was impressed, the substance of the conversation or the statement that was made in the presence of Mr. Salich.

(Testimony of H. L. Stanley.)

A. Well Mr. Roachefort told us that, due to the confidential nature of our work, and the work of the Naval Intelligence Unit, that we should not discuss anything that happened with any outsiders. One meeting I recall very clearly Commander Zucchini gave us a talk along the same lines, and he told us it was very much a confidential nature and, like virtue, intelligence work was its own reward.

(Before the witness was asked the question immediately hereunder there was shown to him for examination Government's Exhibit No. 3 for Identification.)

Q. Upon your examination I would ask you if any part of this document pertains to any investigation conducted by you?

Mr. Pacht: Just a moment. I object to that, first, upon the ground that the document speaks for itself and that this [264] witness may not interpret any language therein contained or give his opinion as to whether or not it refers to any investigation; secondly, that it is immaterial and irrelevant as to either defendant and calls for his conclusion or opinion.

The Witness: It does.

By Mr. Harrison:

Q. What part, if any?

A. The last two paragraphs.

Q. Did anybody assist you in making that investigation?

A. No, sir. I was alone.

(Testimony of H. L. Stanley.)

Mr. Pacht: May it be understood, if the Court please, that my objection goes to this whole line of questions as to the witness' statement concerning any investigation relating to any part of this document?

The Court: Satisfactory to counsel for the Government?

Mr. Harrison: Yes.

The Court: It may be so stipulated. The objections will be overruled and exceptions allowed unless otherwise indicated by the court.

By Mr. Harrison:

Q. After you made the investigation, did you make any report covering such investigation?

A. Yes, sir.

Q. And what did you do with that report?

A. Turned it over to Mr. Clayborne.

Q. Was Mr. Salich with you at any time that you made such reports or investigations?

A. No, sir.

Q. And was the contents of that report ever communicated by you to Mr. Salich?

A. No, sir. [265]

Q. Do you know about when you made such investigation?

Mr. Stone: I now object to the materiality and relevancy and competency of this testimony.

The Court: The objection will be overruled, and an exception allowed.

The Witness: I do.

(Testimony of H. L. Stanley.)

By Mr. Harrison:

Q. About when was it?

A. It was during the month of September, 1938.

Mr. Harrison: I think that is all. Just a moment. I believe, if the Court please, for the purposes of the record it should be fully disclosed as to just what portion of this document is referred to, and on that theory I would like to ask the witness a question or two more, if I may.

The Court: You may.

By Mr. Harrison:

Q. Mr. Stanley, referring to this again, do I understand that the portion that you claim was covered by an investigation and report made by you, covers the last two paragraphs, the first of which consists of two lines and one word, and the second paragraph of three lines, all in typewriting?

A. (Examining Document) (Government's Exhibit No. 3 for identification.) It would be four lines—

Q. (Interrupting) Four lines and three words?

A. Yes, sir.

Mr. Harrison: That is all.

Cross Examination

By Mr. Stone:

I was first employed by the United States Naval Intelligence Service April 1, 1937. Before that I was Chief of the Customs Patrol at San Diego.

(Testimony of H. L. Stanley.)

Prior to that I was in Europe. I made a trip around the world in 1929, got back here in 1930, and went to work [266] for the Customs. Prior to that I was director of Personnel for the Julian Petroleum Corporation. For thirteen years I was connected with the Burns Detective Agency. I have had, altogether, twenty-six years experience as an investigator and gatherer of information. My stock in trade is really information.

Cross Examination

By Mr. Pacht:

I am in the Naval Reserve Corps; I am a Lieutenant in it, and have been such for about four years. I have not been connected with any other branch of the United States Service outside of the Customs Service. In that I was the Chief of the Border Patrol for seven years. I am assigned to the Intelligence Unit of the Reserve Corps. With respect to Government's Exhibit No. 3 for identification, I meant to say with relation to the two paragraphs pointed out by Mr. Harrison, that in the course of my investigations I found out the substance of what is set forth in those two paragraphs. Then I came in and told Commander Clayborne about it; I made a written report about it. From that written report Commander Clayborne, I think, drafted these two paragraphs. I saw the two paragraphs after they were drawn up. They

(Testimony of H. L. Stanley.)

were shown to me by Mr. Clayborne. I believe it is that report there, Government's Exhibit No. 3 for identification which you are showing me. Except for the Clerk's identification stamp, every word that is on this Government's Exhibit No. 3 for identification was on the document which was shown to me by Commander Clayborne. I believe it was shown to me the third Friday in November, 1938, in Mr. Clayborne's apartment, at 423½ Eighth Avenue, Los Angeles. There were present Mr. Clayborne and myself.

Redirect Examination

By Mr. Harrison:

I saw the original report from which the information came that is set forth in the last two paragraphs, (of Government's [267] Exhibit No. 3 for identification). I believe it was this exact report that Mr. Clayborne showed to me. Referring to Government's Exhibit No. 3 for identification, at the time I had the conversation with Mr. Clayborne in the latter part of November, 1938, at his apartment, I was referring to a report with the same typewriting on it as this report has. If it is the same particular piece of paper, I do not know, but it contains the same information as is contained in this report. It was either this report or one identical.

(Testimony of H. L. Stanley.)

Recross Examination

By Mr. Pacht:

The paper I saw in Commander Clayborne's hands, and as which I have just been interrogated, had upon it all the typewriting and handwriting that is shown upon Government's Exhibit No. 3 for identification, except this stamp with the handwriting on it, and including the lines that I see on this exhibit. The report was in my hands while I was reading it; Commander Clayborne handed it to me with another paper, another letter. I have never seen it from that day in November until it was exhibited here in Court. It was never shown to me by Mr. Dierst of the Department of Justice; nor by Mr. Harrison or Mr. Neukom, or any other person connected with the United States Attorney's office, or Department of Justice, or Federal Bureau of Investigation. I have read the document, Government's Exhibit No. 3 for identification, and believe that everything that appears, either in typewriting or in longhand in writing and in lines on it was likewise on the document when I saw it in Mr. Clayborne's hands and when he showed it to me.

Whereupon it was stipulated by and between the respective parties that the witness for the Government,

ANN SACKHEIM,

if called to the stand would testify that she is an employee of the Intourist, Inc., which maintains an office here at Los Angeles at 756 South Broadway. That is the corporation or office of which the defendant [268] Mr. Gorin is an employee. That the records of this organization, Intourist, Inc show that Mr. Gorin's salary during the whole of the year 1938 was in the amount of a total for each month of \$274.30, less a 1% tax of \$2.74, showing that Mr. Gorin, as a salary, received each month during the year 1938, \$271.56.

It was further stipulated that Intourist, Inc., is a corporation duly and regularly incorporated under the laws of the State of New York and authorized to do business in this state, pursuant to the filing of its certificate as provided by law.

G. V. DIERST,

being called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

I live in Los Angeles and am a Special Agent of the Federal Bureau of Investigation, located in Los Angeles, our office being at 810 South Spring Street. I have been engaged in this occupation since

(Testimony of G. V. Dierst.)

April of 1935. Prior to that time I practiced law. My immediate superior officer at the present time is R. B. Hood; prior to Mr. Hood, Mr. Zimmer acted for about a month; John H. Hanson was the agent in charge up until the first of January, 1938. The local office of the Federal Bureau of Investigation is under the supervision of the Director at Washington, D. C. The director is John Edgar Hoover. I know the defendant, Mr. Salich, I first became acquainted with him on December 10, 1938. I met him first at his apartment at 854 South Harvard, in this city. At that time there were with me Agents McGee, Mulherine and Hare. They are agents of the Federal Bureau of Investigation. I went to the apartment of Mr. Salich in connection with making an investigation concerning certain information which was alleged at that time to have been turned over to certain individuals. I went there, I would say, approximately 11 or 11:30 in the morning. At that time I had a conversation with [269] Mr. Salich; the parties were present that I have named.

Q. And what, if anything, was said at that time by you to Mr. Salich, or Mr. Salich to you?

To which question the defendant Gorin objected on the grounds that no conspiracy had been proven or established, and that if it is in the nature of an admission or confession, it took place after the termination of the alleged conspiracy, and that if

(Testimony of G. V. Dierst.)

it is not an admission it is not alleged in the indictment or bill of particulars. Objection overruled. Exception allowed.

The Witness: When we first went into the apartment, Agent McKee and myself first entered, and we told Mr. Salich that we had come out there to talk with him, and we were making an investigation concerning certain information which he was supposed to have turned over to Mr. Gorin. Mr. Salich at that time advised that any information which he turned over to Mr. Gorin was information that was not prejudicial to the United States. He further at that time advised that he was familiar with the Espionage Statute and that information that he had turned over to Mr. Gorin he did not consider was in violation of the Espionage Act.

By Mr. Harrison:

Q. Proceed with any further conversations had.

A. He further asked at that time whether he was under arrest and he was specifically advised that he was not under arrest, that at this stage the investigation was in its preliminary state, and that we were anxious to have his cooperation in order to get at the bottom of the investigation and find out just what had transpired. We requested that he come down to the office and talk the matter over with us, make a disclosure of any information that he had bearing upon this particular case.

Q. Did he make any answer to that request?

(Testimony of G. V. Dierst.)

A. He willingly assented. [270]

Q. Just a moment. State not your conclusion as to what he said, but what he said in substance.

A. In substance he stated that he wanted to co-operate with the Government and so that, if possible, he could be cleared on it and it could be determined just whether there was a violation or whether there wasn't a violation. That is not verbatim, but that is the substance of the conversation that took place at that time.

Q. Anything further, any further conversation?

A. The question of searching the premises was discussed. In other words, Mr. Salich was asked for his permission to search the apartment, and Mr. Salich at that time advised us that he realized that in police work—that he would be glad—he had been in police work for a number of years, and he would be glad to cooperate to that extent and advised that practically all of the papers that he had were contained in a briefcase, and that he would be glad to bring that briefcase into the office for examination.

Whereupon defendant Gorin moved to strike all that the witness had stated with relation to his conversation at Mr. Salich's apartment on the grounds that no conspiracy had been proven, and the further ground that if any conspiracy ever existed, it had already been terminated, and that any statement or declaration made by any of the alleged co-con-

(Testimony of G. V. Dierst.)

spirators after termination of the conspiracy was not admissible against any other alleged co-conspirator. Motion denied. Exception allowed.

(Witness continues): Mr. Salich had agreed to go to the Federal Bureau of Investigation office with me. We then went to the office; I mean by "we" Agent McGee and myself went down with Salich while the other two followed in a short time. I can't recall any specific matter of conversation with Salich between his apartment and the office of the Federal Bureau of Investigation. We may have talked, carried on a general conversation en route. When we arrived [271] at the office, myself, and Mr. Hanson and Salich sat down in one of the rooms, conference rooms of the office, and discussed the case in great detail. Mr. Hanson was the Agent in charge of the Los Angeles Division at that time. I should judge that it was shortly after noon, perhaps one o'clock or 1:30 when we arrived at the office. The three of us were present in the conference room, had a very lengthy conversation. Notes were made of the conversation by me. When we talked with him at first, as the conversation progressed, notes were made concerning what we considered the more pertinent details and after a conclusion of most of the interview the notes were re-written and Salich, himself, sat down and went over these notes to make any correction of any

(Testimony of G. V. Dierst.)

errors that might appear. I have those notes with me.

Whereupon the notes were produced and upon application of the Government marked "Government's Exhibit No. 4 for identification."

Q. Mr. Dierst, at the time that you are telling us about, were any files of the Naval Intelligence Office exhibited to Mr. Salich?

To which question defendant Gorin objected on the ground that anything which the witness stated with relation to the conduct or declaration or statements of defendant Salich upon the occasion in question was inadmissible upon the ground that neither the acts, conduct or declaration of Salich at that time were in any way binding upon the defendant Gorin, and occurred subsequent to the termination of the alleged conspiracy, and constitutes hearsay. Objection overruled. Exception allowed.

A. They were.

Q. And just describe, generally, without stating any of the contents, the number of the files so exhibited.

A. There were two volumes of files exhibited totalling [272] approximately 1100 to 1200 reports of thin yellow onionskin paper.

Q. And were those—what was done with these two volumes of reports?

A. These two volumes—you mean where are they now, or what was done at that time?

(Testimony of G. V. Dierst.)

Q. What was done at that time with the two volumes of the files? Will you give us a description of the papers that were in the files?

A. A physical description of the papers in the files were, that they were on regular-sized letter sheets, thin yellow onionskin, and were carbon copies of typewritten reports, numbered chronologically.

Q. Where did you obtain these two files that you exhibited to Mr. Salich?

A. From Lieutenant Clayborne, or the Navy Intelligence Service.

Q. And was Lieutenant Clayborne present when they were exhibited to Mr. Salich?

A. He was not present when they were exhibited.

Q. What did you or Mr. Salich do with these reports at that time?

A. Mr. Salich and I sat down side by side; Mr. Salich leafed through the reports, read them over, that is, he started with the first volume, and we started at some random point; from there on he leafed through them and, as he read them over, he would make a comment in connection with each individual report as to whether he had turned it over to Mr. Gorin, or whether he had not turned it over to Mr. Gorin, and notes were made by me at the time referring to those reports by number, the

(Testimony of G. V. Dierst.)

number appearing in the upper lefthand corner of the report.

Q. Now, what was done with the reports that he identified? [273]

Mr. Pacht: Just a moment, Mr. Garrison, if you will pardon me.

May it be understood, if the Court please, that I have a continuing objection to this whole line of interrogation as to what was said by Mr. Salich, what was done by Mr. Salich, at this particular interview that the witness is relating, at which these reports were exhibited and comments alleged to have been made?

The Court: The objection as to statements during this conversation will be entertained on behalf of the defendants Gorin, and will be denied, and an exception allowed.

Mr. Pacht: And what disposition is your Honor making of my objection as to the conduct of Mr. Salich? Is your Honor overruling that objection as well?

The Court: I am simply ruling upon the matter before the Court that is, the question of this conversation.

Mr. Pacht: I understand that the witness is relating also certain conduct on the part of Mr. Salich, and I am likewise objecting to whatever Mr. Salich's conduct was at that time, or, rather, Mr.

(Testimony of G. V. Dierst.)

Dierst's relating of it, and for the like grounds urged.

The Court: That will be likewise overruled and an exception allowed.

The Witness: The reports that he identified as being reports that were turned over to Mr. Gorin were withdrawn from the Navy Intelligence file, that is, the two volumes, of files.

By Mr. Harrison:

Q. Where are those reports now?

A. The withdrawn reports?

Q. Yes.

A. The withdrawn reports I think you have them there.

Q. I show you—I will ask that this be marked, one of them 4 and the other one 5, for identification.

The Clerk: 5 and 6. [274]

The Court: 5 and 6.

Mr. Harrison: 5 and 6.

The Court: They may be so marked.

(The reports referred to were received and marked "Government's Exhibit No. 5 for identification" and "Government's Exhibit No. 6 for identification," respectively.)

By Mr. Harrison:

Q. I will show you first Government's Exhibit No. 6 for identification and ask you if you recog-

(Testimony of G. V. Dierst.)

nize that as anything that you have seen before?

A. (Examining document) That is.

Q. And what is it?

A. These are the reports examined by Salich, contained in Volume No. 1 of the Navy Intelligence reports, that he selected as being turned over to Gorin or, in accordance with the various comments that he made, which I have notations of on the notes here.

Q. Mr. Dierst, will you explain for the benefit of the Court and jury, just the method by which those reports were removed from the general files and the taking of the notes?

A. As Mr. Salich was going through the reports, he would read them over, and we would take each of the individual reports, and he would say, in connection with it, "I turned this one over," or "I didn't turn this one over," or "I gave the highlights on this one," and so on through numerous reports.

And as to any of the comments which he made concerning reports which he stated that he turned over, or that he related information to Mr. Gorin that was contained in those reports, I made notes on.

The negative information I did not make notes on.

Q. And you have those notes available?

A. I have.

(Testimony of G. V. Dierst.)

Q. Now, I will show you Government's Exhibit No. 5 for [275] identification, and ask you if you recognize it?

A. (Examining document) I do.

Q. And what is it?

A. These are copies of reports that were removed from Volume 2 of the Navy Intelligence files.

Q. And you say they were removed by yourself, and after it had been identified by Mr. Salich?

A. After it had been identified by Mr. Salich.

I might explain, in connection with the reviewing of these various reports; that there was more or less a break in the period of time. When we first talked the matter over with Mr. Salich, when the Navy Intelligence reports first arrived, which was probably about an hour and a half after Mr. Salich was in the office, the reports—it was just taken at random from Volume 1—and a number of reports was reviewed by him, and those comments were made. Those are the ones we have already previously discussed. Later on there were certain reports that he was asked specifically about, as to whether he had turned them over, and in connection with that he made certain comments on them, which are also contained in the notes. Also, he was asked to select certain reports that he had made or turned over to Gorin on the last date of contact that he had had with Gorin. So that the reports con-

(Testimony of G. V. Dierst.)

tained in this Exhibit 5 will be of that nature. But they were all examined and read by Mr. Salich and he made the respective comments concerning them.

Q. Now, referring to the comments relative to these reports, I will ask you to state which report he identified first, what number?

A. The first report was 570 that he identified.

[276]

Q. And what comments, if any, did Mr. Salich make relative to that report?

A. He said he remembered he gave that to Gorin.

Mr. Pacht: We are still, I take it, operating under the understanding that on behalf of the defendants Gorin we are objecting to all of these statements, all of these declarations, and anything that Mr. Salich may have said or done upon the occasion of this interview, upon the ground that if there has been, or have been a conspiracy, that it had terminated and that it is in no way binding upon either the defendant Natasha Gorin or the defendant Mikhail Gorin; and, further, that there has been no proof whatever of any conspiracy thus far made.

Of course, I understand your Honor's theory upon which your Honor is admitting the evidence on the last objection.

The Court: Yes.

I might say that my understanding of the objection is made on the ground indicated to all of the

(Testimony of G. V. Dierst.)

sayings, doings and occurrences at this interview between the witness and his associates and Mr. Salich.

Now, the Court is admitting this information on this theory, that it is the act, that these things are the acts, deeds, and that these occurrences are in connection with the acts and deeds of one of the co-conspirators during the existence of the conspiracy and before it is terminated.

Naturally, if one had their choice, they would have the conspiracy firmly established before any evidence was introduced, in other words, the *corpus delicti* proved.

We would also have the termination date of the conspiracy determined, and that evidence would be taken of occurrences between these two dates.

As I have previously indicated, in actions of this kind, or indictments of the type indicated here, that is frequently almost impossible. Some of these questions may have to be left to the [278] consideration of the jury.

Therefore, the offer of proof is left, to a great extent, to the discretion of the judge, and the judge is exercising that discretion in favor of permitting the evidence to go in this way, with the understanding that he may grant motions to strike portions of it at some future time during the trial upon application of counsel.

Mr. Pacht: And it may be understood that my objection goes to all of these questions?

(Testimony of G. V. Dierst.)

The Court: And that your objection goes to all of these questions, and that an exception is allowed.

Mr. Pacht: Now, your Honor, particularly on the question of the termination of the conspiracy, which is one of the grounds of my objection, may I ask the District Attorney if it is his contention that any acts whatever in furtherance of the conspiracy were done or performed by Salich subsequent to the date of this interview, or subsequent to the date when he was taken into custody at his apartment, or, as Mr. Dierst has stated it, voluntarily came down to his office?

Now, if no further acts were done or performed subsequent [279] to the first interview that Mr. Dierst had with Mr. Salich at his apartment, on the morning of the 10th of December, then manifestly any act that Salich performed or conversation he had or declaration or admission which he may have made to Mr. Dierst at the Government's office, I submit is in no way binding upon Mikhail Gorin.

The Court: Well, it is my understanding that the Government proposed to prove that the conspiracy did not terminate until a subsequent time. Am I correct?

Mr. Harrison: It is our theory, if the Court please, that it was not terminated until the final arrest, and, as far as we know, it may still be in existence.

(Testimony of G. V. Dierst.)

The Court: Very well. The objection will be overruled.

Mr. Pacht: Exception.

The Witness: 570.

Q. 570? A. Yes.

Q. Where do you find that number on such report?

A. It is in the upper left-hand corner of the report.

Q. And is the last page in Volume 1?

A. It is the report that is on the last page in Volume 1, or Exhibit 6 of the Government's exhibits.

Q. Now, what was the next report that any comment was made upon?

A. The next report on which comment was made was report No. 565.

Q. And what comment, if any, did Mr. Salich make on such report?

A. In connection with No. 565, he stated that he might have given this one. He wasn't sure.

By Mr. Harrison:

And what was the next report that was identified?

[280]

A. The next one was No. 560, and in connection with this report he stated that he had given the high-lights on this report concerning Japanese boats.

Q. Any other comments?

(Testimony of G. V. Dierst.)

A. No other comments.

Q. What was the next report upon which comment was made?

A. The next report was 554.

Q. And what comment, if any, was made?

A. In connection with report 554, I merely have the name contained that is referred to in the title of that report, so in connection with that report I am not in a position to say as to just what he did.

Q. Will you proceed and go on down through the various reports that were identified at that time by Mr. Salich and comments made on each?

A. In connection with report 552, he stated that he gave the highlights concerning the information in that.

Q. When he said he gave the highlights, did he say to whom he gave the highlights?

A. Yes. In each one of these connections, when I refer to it, he stated that he gave this information, or the contents of the information in these reports, to Mikhail Gorin.

Q. You may proceed down through the reports.

A. The next one was report No. 551. He stated he was not sure as to whether he had given this information.

Mr. Warne: May we understand that this is the order in which they were discussed with Mr. Salich at that time?

The Witness: That is correct. Report No. 548, he stated that he gave to Gorin. Report No. 546,

(Testimony of G. V. Dierst.)

he stated that he gave to Gorin. Report No. 541, he stated that he was not sure whether he had given this to Gorin; No. 540, he stated that he might possibly have given that one to Gorin. 536, he stated that he gave to Gorin. 535, [281] he stated that he gave to Gorin; 534, he stated that he gave to Gorin; 532, he stated that he mentioned the contents contained therein to Gorin; 530, he stated that he gave the information to Gorin; 529, he stated that he gave the contents of the first paragraph in that report to Gorin; 528, he stated that he gave to Gorin; 525, he stated that he gave to Gorin; 522, he stated he wasn't sure, but he might possibly have given this information to Gorin; 519, he stated he gave to Gorin; 514, he stated he gave to Gorin; 507, he stated he gave to Gorin; 505, he stated he gave the information to Gorin; 504 he gave to Gorin; 503 he gave to Gorin.

The Court: You mean that he stated that he gave it to Gorin?

The Witness: He stated he gave the information, or the contents contained in that report, to Mr. Gorin.

The Court: That same statement is applicable to the previous one?

The Witness: That is applicable to all of those where I mentioned that he gave the information to Gorin. By that, he stated that he gave the contents of the information, in some instances he stated

(Testimony of G. V. Dienst.)

that he gave it to him orally, or in some other instances he gave it to him in written reports, that he could not select in each instance that I am relating here whether he gave oral information or whether he gave written information, unless it is otherwise qualified.

Mr. Pacht: May I clear up a matter that I don't quite understand?

The Court: Yes. I would like to have the witness indicate where his notes reveal that the report itself was given to the defendant Gorin, rather than the information.

The Witness: In none of these reports did he state that the actual physical report was turned over to Mr. Gorin. He stated that he gave the contents of the report or the information contained in the report to Mr. Gorin. [282]

Mr. Pacht: Your Honor has asked the question I intended to ask.

Mr. Warne: May I inquire as to the alternative? Did he state that he did not give the report? The witness has said that he didn't say that he had given the physical reports; may I inquire of the witness if Mr. Salich at that time said that he had given any of the physical reports?

The Court: Did he state during that conversation that he had not given the physical report to Gorin?

The Witness: He stated that he did not give the actual physical report to Mr. Gorin. He did, how-

(Testimony of G. V. Dierst.)

ever, state in some instances, on reports that will be later mentioned, that he gave the information to Mr. Gorin in writing. As to whether it was a verbatim copy or not, he didn't state.

By Mr. Harrison:

Q. You may proceed.

A. 495 stated that he gave information to Gorin from that report. 489 he gave to Gorin. 487 is not—he is not sure whether he gave it to Gorin. 482 he gave to Gorin. 480 he gave to Gorin. 479 he gave to Gorin. No. 478 he stated he was not sure whether he had given this to Gorin. On 477 he stated that he gave that one to Gorin. 472 he stated he gave to Gorin. 469 he stated he gave to Gorin. 466 he stated he gave to Gorin. 465 he stated he gave to Gorin. 439 he stated he gave to Gorin. 435 he stated he gave to Gorin.

Mr. Pacht: May it please the Court, may we have the stipulation with Mr. Harrison that when the witness says that Mr. Salich gave the reports to Mr. Gorin—that the witness means by that that Salich told him that he gave either the substance or some memorandum of the reports, but not the report itself, or a copy of it.

The Witness: That is correct. [283]

Mr. Harrison: I believe that, if the Court please, rather than stipulate, I will bring it out by examination as to just—

The Court (Interrupting): I think we may consider that the question has been asked, and the wit-

(Testimony of G. V. Dierst.)

ness has answered in the affirmative, and that will save the trouble of going over it again."

The Court: Do we understand, Mr. Dierst, that unless you state otherwise, that you are meaning by the words "gave to Gorin," or words of similar import, that the substance of the report was given to Mr. Gorin orally, according to Mr. Salich's statement?

The Witness: Given to Mr. Gorin orally or written. However, Mr. Salich could not designate those which he gave orally and those which he gave written.

The Court: And if any other situation prevails, will you so specifically indicate as to a particular report?

The Witness: I will.

By Mr. Harrison:

Q. Mr. Dierst, was the expression used, he gave the substance, or just what was the language used in that respect?

A. He gave the substance or the contents of the information contained in the report, which we have referred to in the respective reports.

Q. Now, Mr. Dierst, in your testimony Friday —for the benefit of counsel, that may be found on page 382, line 19—you stated, in effect, that he selected certain reports that he had made or turned over to Gorin on the last date of contact that he had had with Gorin. I will ask you if Mr. Salich

(Testimony of G. V. Dierst.)

at that time stated to you when he had had the last contact with Mr. Gorin.

A. He did: He stated that the contact at which he had given those reports was on November 25th, 1938, the day after Thanksgiving. However, later in the evening he mentioned that he had seen Mr. Gorin on the night of December 9th, but he did not give any reports to him on that evening. [284]

Q. Will you give us the substance of what he said relative to his contact with Mr. Gorin on November 25 of 1938?

A. Mr. Salich advised me that he had met Mr. Gorin on Hollywood Boulevard, on the day after Thanksgiving, which was November 25, 1938, and at that time turned over to Mr. Gorin certain reports which Mr. Salich selected for me from the Naval Intelligence files as reports which he had turned over; and also that Mr. Gorin on that evening had paid him \$200.00. The reports that Mr. Salich selected as having been turned over to Gorin on that evening are in my notes.

Q. Referred to in Government's Exhibit No. 4, for identification? A. That is correct.

Q. Did Mr. Salich at that time tell you in what form or what type of money or whether it was money or not, actual cash, that he turned over to him on that day?

A. It was—Mr. Salich told me it was in cash, and furthermore, that the \$200 which he had in his

(Testimony of G. V. Dierst.)

possession at that time, which were in \$50 bills, was the money which Mr. Gorin had turned over to him on the night of November 25th.

Q. What do you mean by "at that time"?

A. Which Mr. Salich had in his possession on December 10, during the conversation at the office.

Q. Thereafter did you ascertain whether or not Mr. Gorin did have four \$50—or Mr. Salich did have four \$50—bills in his possession?

A. Mr. Salich had four \$50 bills in his possession.

Q. Now, Mr. Dierst, referring to Government's Exhibit No. 4 for identification, when was that written up?

A. That was written up on the evening of December 10, 1938.

Q. And these conversations that you have told us about, [285] and also the identification of these various reports, was that at the same time, before or after?

A. They all occurred on December 10th.

Q. At that time, as I understand it, you made a rough memorandum? A. That is correct.

Q. And those are the memorandums that you have been using to refresh your recollection?

A. That is right.

We first made a pencil memorandum and after I had the pencil memorandum made up, or I took

(Testimony of G. V. Dierst.)

down the notes from time to time during the conversation, then I went over it and rewrote the notes in ink while Mr. Salich was over at another desk at a typewriter preparing the statement. After he got through with the statement, or after I had my notes prepared, he came over and asked me to review them. We sat down together and reviewed them, and he made certain corrections in the notes with his own handwriting.

Q. Calling your attention again to Exhibit 4 for identification, is that memorandum in your own handwriting?

A. This is a memorandum in my own handwriting with certain corrections made in it in the handwriting of Mr. Salich.

Mr. Harrison: At this time, if the Court please, we desire to offer this statement in evidence.

The Court: Gentlemen of the jury, it is stipulated between the parties that the Government's Exhibit No. 4 for identification may be now admitted in evidence as to the defendant Salich, but is not applicable to the defendant Mikhail Gorin, and you are instructed to disregard this exhibit in considering the matter as to the two defendants Gorin.

Whereupon the document referred to was received in evidence and marked "Government's Exhibit No. 4."

Mr. Stone: I think the record should show that we do not [286] consider that Mr. Dierst's state-

(Testimony of G. V. Dierst.)

ment refers to matters with respect to the national defense, and for that reason I would like to have the record show an objection in that regard.

The Court: The record may show the objection. It is overruled and an exception allowed.

Whereupon the witness read the statement, Government's Exhibit No. 4, the same reading as follows:

GOVERNMENT'S EXHIBIT NO. 4

Notes of G. V. Dierst of statements made by Hafis Salich, 12/10/38, and reviewed and corrected by Salich, signed G. V. Dierst. While subject was on Berkeley, Calif., P. D., he was acquainted with one O. R. Griffin who was a former member of Berkeley P. D. and Griffin knew Mr. Troyanovsky, the Russian Ambassador to U. S. Griffin thru Troyanovsky met Nicholai Aliavdin, Vice Consul for Russia. Griffin introduced Salich to Aliavdin, this being in the latter part of 1935. During the latter part of 1935 and 1st part of 1936 Salich saw Aliavdin once or twice. Salich came to L. A. in Aug. of 1936 to take present job. Some time during winter of 1936-1937 Aliavdin looked up Salich in L. A. & saw him 3 or 4 times when Aliavdin was recalled to Russia about the summer or spring of 1937. He had been vice consul at San Francisco and was transferred to L. A. Aliavdin approached Salich and requested information concerning Jap

(Testimony of G. V. Dierst.)

activities or the Jap Consulate and was turned down. At this time Salich advised Roacheforte of Aliavdin's request.

In Dec. '37 or Jan. '38 Salich met Mikhail Gorin, Gorin having a letter of introduction from Aliavdin. Gorin brought this letter to Salich's apartment at 3333-W 4th St. and Salich, being out, Gorin left word with Salich's wife that he desired to see Salich.

The following night Salich contacted Gorin at his residence, 451 South Ardmore St. And they went out together. While they were out, Salich's wife, with whom Salich had been having trouble, came to Gorin's house, forced her way in and searched the front room [287] for Salich, Mrs. Gorin being the only person home. Gorin told Salich that they had investigated his folks in Russia and found that they were alright and that they felt that Salich would be able to help them. He stated that they wanted information about the Japs and that Russia was friendly with U S and did not want to do anything that would in any way jeopardize that relationship. Salich told him that no information he could obtain about the Japanese would help them, but Gorin explained that there was always a possibility that in event of trouble between the Russians and Japanese that such information might be of assistance and they were interested in Japanese and their

(Testimony of G. V. Dierst.)

international activities. They had 2 or 3 meetings and about this time Salich was having marital trouble, he and his wife separating, so Gorin said he would help him out and gave him \$200 more or less as a gift and to help him out. Thereafter from time to time Gorin gave Salich sums of money, generally about \$200 at a time and totalling about \$1700, the next to last payment being \$500 in Nov of 1938 when Salich made a property settlement agreement with his wife. He had been paying her \$125 per month and the amount received from Gorin just about took care of the alimony.

Information concerning Japanese activities were furnished to Gorin from time to time, and it was specifically understood between Salich and Gorin that no information would be furnished concerning U. S. It being felt by Salich and Gorin that the Japanese activities were a matter in which U. S. and Russia were both interested and that exchange of information about them would mutually benefit U. S. and Russia.

Salich and Gorin had no specific meeting place, but would get together about every 3 to 5 weeks at places mutually agreed upon. Sometimes Salich would phone Gorin and vice versa. The information was turned over to Gorin both orally and written and Gorin would take notes on oral information. [288]

(Testimony of G. V. Dierst.)

Timofeev was vice consul until recently but Salich never met him and never had any dealings with him.

Gorin told Salich on one occasion that he had had an American employed, but had fired him because he was unreliable, and he also said that a similar check was being made on Japanese activities in San Francisco and Salich saw part of a typewritten report about Ted Yasunaga, or Yasukawa or Yasaqawa and something about the subject being a graduate of Galileo H. S.

Gorin always claimed that his superiors felt that there was more in the navy intelligence about the Japs than they were getting and particularly about who the real Japanese spies in U S were, but Salich insisted that Gorin was getting all the information available concerning the Japs. Gorin also stated at one time that Moscow was dissatisfied with the information they were getting and felt that Salich could get more information. He also stated that they felt that something of real interest to the Russians might turn up about the Japs in the future. He also inquired at one time if Salich had any Jap informants who could be developed to furnish Gorin information, but Salich advised him that it would put his informants in a ticklish position and refused to give him any

(Testimony of G. V. Dierst.)

such Japs. Gorin at one time said that money was no object and said he would even pay double what Salich was getting. At another time Gorin told Salich that if he, Salich, got any extended leave, that he, Gorin, would see that Salich got a trip to Russia, advising Salich that the Russian Government as a part of their propaganda program paid for trip to Russia of members of certain organizations and that it could be arranged for Salich to make one of these trips.

Salich stated that when Gorin first approached him that he, Salich had talked the matter over with Roachefort and Roachefort told him to see what Gorin had to offer. He told Roachefort at the time of the offer that Gorin had made. [289]

Salich when first approached told Gorin that it was out of question for he, Salich, to do any independent investigation and that all information furnished would have to come as a result of his investigation with the Navy Intelligence. Gorin also told Salich that Moscow felt he, Salich, was not doing anything wrong as there was a mutual cause in obtaining information about the Japs.

In going over the various reports of the Navy Intelligence records with Salich, he stated that he furnished information from the following

(Testimony of G. V. Dierst.)

reports to Gorin on their last meeting which was the day after Thanksgiving last, on Nov. 25, 1938.

#1145

#1139

#1133

#1132

#1130

#1129

#1116 (This report was not furnished).

He asked Gorin about Captain Bakesy and Gorin said he knew Capt. Bakesy as he had come to Gorin's San Francisco office. Salich asked Gorin of Bakesy, because he suspected that Bakesy may have been employed by him.

In going over other reports in the Navy Intelligence files Salich made the following comments about the following numbered reports.

#838. He gave the information in this report to Gorin because it concerned the Japanese and if there was a communist among the Japs, then Gorin could contact him direct for information and this would be working towards a common interest. This report was given to Gorin in writing.

#841. He gave this information to Gorin, but does not know whether it was written or oral.

#843. Denies knowing anything about this or giving [290] information to Gorin.

(Testimony of G. V. Dierst.)

#849. Gave names of Simons & Rayburn to Gorin and asked him whether these parties had been working for Gorin. Gorin had mentioned a Simons in San Diego that was supposed to be studying Japanese and Salich mentioned these names to see if Rayburn and Simons were working for Gorin and doing sabotage work.

#854. No specific recollection about this but that he might have mentioned it to Gorin. Salich states that they had talked about the article in Liberty Magazine discussing Japanese torpedo boats which were supposed to have been converted into fishing boats.

#859. Salich did not furnish Gorin with the address of Simons.

#861. No specific recollection.

#889: Salich states he did not remember furnishing Shively's name to Gorin.

#897. Salich gave this information to Gorin, but does not know whether it was written or oral.

#967. Salich merely gave Gorin the name of Hilda Cary and some of her personal history, such as the fact she had been married to a Mexican, also her address. It was then up to Gorin to make a contact with her if he so desired. (May have given a written report or copy).

(Testimony of G. V. Dierst.)

#973. Salich gave Gorin information about Louis Ritchie as a possible Japanese spy, because he was capable of doing anything for the Japanese and might play both sides.

#1066. Salich and Gorin had agreed that if they ran into anything against the U. S., that they would work together and so Salich asked Gorin about Hillman and Kovac and Gorin said the Russians had no known communists working and that this was all a lie.

Other reports mentioned by Salich to Gorin were as follows: [291]

#1152—no comment.

#1110—the following comment appears after that: "told to Gorin orally, but did not mention ships.

#1104—mentioned to Gorin.

#1088. Told about Herman Schwinn—when this was mentioned to Gorin he told Salich to lay off the Germans as Moscow was not interested and that this was covered by a separate division.

#1081. Mentioned to Gorin, may have given written report.

#1070

#518 is information received from Gorin.

#403 is information received from Gorin.

Salich feels that at least \$100 of the money he received from Gorin was spent on navy business.

(End of Government's Exhibit No. 4.)

(Testimony of G. V. Dierst.)

By Mr. Harrison:

Q. As I understand your testimony, Mr. Dierst, after you had finished making this memorandum Mr. Salich went over it with you?

A. He did.

Q. And made certain corrections?

A. He made certain corrections, yes.

Q. And those corrections appear on Exhibit No. 4 in a different handwriting from the general text?

A. That is correct.

Q. You stated that while you were making up this memorandum that Mr. Salich sat down to a typewriter and wrote up something?

A. He did.

Q. And after he had completed the typewriting, did he hand you anything?

A. He did.

Mr. Harrison: I will ask this to be marked for identification, [292] Mr. Clerk.

(The document referred to was marked "Government's Exhibit No. 7 for identification.")

By Mr. Harrison:

Q. I am now showing you Government's Exhibit No. 7 for identification, and ask you if you recognize that document.

A. (Examining document) I do.

Q. And what is it?

(Testimony of G. V. Dierst.)

A. This is the typewritten statement which Mr. Salich typewrote while I was preparing the notes which I just read.

Q. And did Mr. Salich sign that document?

A. He signed it the following day.

Q. And in whose presence?

A. He signed it in the presence of Mr. Hanson and myself and Mr. Miller.

I might say, in connection with that, he had already, signed the statement on Sunday morning prior to my arrival at the office; that I went in to where he was and asked him whether he had signed the statement, showed it to him, and he told me that he had, and acknowledged that that was his signature on the bottom, and it was his signed statement, that he had voluntarily signed it.

Mr. Harrison: If the Court please, we now offer this in evidence against the defendant Salich only.

Mr. Stone: May the record show the same objection in regard to this statement, your Honor, that we made in connection with the other one; that it does not concern matters affecting the national defense.

The Court: The objection will be entertained, overruled, and an exception allowed.

The document referred to was received in evidence and marked "Government's Exhibit No. 7."

Whereupon Mr. Harrison read said exhibit to the jury [293] said Government's Exhibit No. 7, reading as follows:

(Testimony of G. V. Dierst.)

GOVERNMENT'S EXHIBIT NO. 7

The following is account of the various events that led up to this case and my sincere and honest story as to what transpired during my relationship with Gorin:

Gorin came to my house at 3333 West 4th Street, Los Angeles, during the fall of 1937 and talked to my wife Velma through the apartment house switchboard. He stated to her that he had a letter for me from Aliavdin.

Eventually I contacted Gorin at his house one evening after having had a violent quarrel with my wife. She threatened that she would follow me, so Gorin and I left his house immediately to go somewhere for a cocktail. Velma arrived there shortly thereafter and created quite a scene with Gorin's wife, demanding entrance and looking for me. According to Gorin as told him by his wife, Velma nudged her way in the house and acted quite obstreperously. During that meeting Gorin stated that his government was very much interested in obtaining information concerning the Japanese in this area and emphasized that they were quite friendly to USA and that they wanted no information of any kind that would be considered against the best interests of this country. He suggested that, if necessary, he was quite prepared to pay money to which I answered negatively explaining that I would not consider

(Testimony of G. V. Dierst.)

it ethical or right to accept any money. He asked me to think the matter over, and that we would meet again for lunch sometime soon. Accordingly we had lunch together at Perino's one day, the outcome of which was that I again insisted that I could not consider working for him and accept any money but that if at any time I came into possession of information that concerned Japanese activity against the USSR I would let him know.

In the meantime, after many violent squabbles and [294] quarrels with my wife we separated and in February 1938 I moved to my present address. I agreed to pay her \$125 per month, \$30 of which I was to pay for her car. I was also to deduct her gasoline expense from her allowance. During the next month or two I realized that I was finding it difficult to live on \$125 which was my share. During one of the later contacts that I had with Gorin (these contacts were of purely social nature, meeting for cocktails or lunches) I happened to mention to him about my plight with respect to keeping up with the payments to my wife of \$125 a month, whereupon he stated that he realized the difficulty that I had in living on my reduced salary and asked why didn't I let him help me with those payments. At this point he reiterated his previous assurance that they had nothing against this country, that this country

(Testimony of G. V. Dierst.)

was friendly to them and they friendly to us and that the only thing they were interested in getting was information concerning the Japanese. To my argument that nothing that I could possibly get for them concerning the local Japanese would be of any value to Russia he answered that there was always a possibility of some local angle having to do with possible Japanese Espionage in Russia. He again pointed out that the Japanese were our common potential enemy and it was as much in our interests to see that someone else also exerted some efforts against them.

I saw that there was reason to his argument and agreed to furnish him with information that came to my hands in which I thought he would be interested in. This information was mostly concerning the Japanese. On one or two items of information that I furnished and that did not involve any Japanese I gave verbal explanation to Mr. Dierst. Sometime in the past few months Gorin asked me how I stood with my wife and when informed that I still kept on paying her the \$125 per month he offered that I give her \$500 and get rid of the annoying payments once and for all. He did this, but in the settlement with my wife I discovered the \$500 did not cover the [295] entire settlement sum including the bills which she had incurred and

(Testimony of G. V. Dierst.)

which I agreed to pay, I borrowed additional \$250 from California Bank on Terminal Island. A friend acted as a cosigner on this note. Altogether I received \$1,700 from Gorin, \$200 of which is still in my possession.

After two or three months of my relationship with Gorin he told me that his superior officers were extremely dissatisfied with information I was furnishing. They said to him that what they were getting was way below their expectations. I said to Gorin then that I regretted that there was nothing more I could do, but that inasmuch as I could not satisfy them perhaps it would be better if they stopped furnishing me with money. He said that I shouldn't feel that way about it and that sooner or later there might fall into my hands some information concerning the Japanese which might be of real interest to them, and that he did not wish to discourage me at all. Just as a bythought, at one time during my association with him I told him that I appreciated his financial assistance and that when my trouble with my wife was over I intended to repay him.

Conscientiously and honestly I did not think that my actions, aside from being highly unethical, were inimical to the best interests of the United States, to which country I am extremely grateful for what it did for me and which country's citizenship I value. This was

(Testimony of G. V. Dierst.)

understood during my conversations with Gorin when I told him repeatedly that I felt very patriotic about USA and that under no circumstances would I do anything against this country. His reply to this was that he is authorized to assure me again that they realized my patriotic feeling for USA and that there was nothing for me to worry about in that respect because they entertained no other feeling but that of friendship and respect for this country and that they certainly did not intend to do anything against USA. He stated that after all the USA permitted [296] them to send their aviation and other engineers to study in American plants and brought out other reasons why they had no desire to work against us here.

I sincerely state that at no time did I furnish Gorin any information which in my opinion would harm this country; on the contrary, I saw some reason to Gorin's argument that we had common cause, and by helping them I would also be indirectly helping our own cause. At no time was I ever in a position to obtain anything of secret nature about the U. S. Navy, nor about the secret armament, aircraft plants, etc., nor did I have any intention of turning such information over to Gorin should I have been in a position to obtain such information. I therefore do not conscientiously feel that I have violated any of the provisions of our es-

(Testimony of G. V. Dierst.)

pionage laws, but feel keenly disgrace of violation of ethics, that is, divulging to other sources information as innocuous as I felt it was. I likewise admit my weakness in answering the temptation of financial assistance offered me to assist me in my domestic difficulty. I might add that during one of my attendances of Naval Reserve Officers affairs I came into possession of some confidential mimeographed Naval publication, which was distributed to everyone present, which never left my possession, and which I had no intention of turning over to anyone. I respectfully ask that it be noted that at no time did I feel I was doing anything criminal against the country that adopted me and have every desire to cooperate (and have done so) with the officers investigating this place.

(Then in longhand): Above is given voluntarily and signed without fear of intimidation and without any promise of reward or immunity.

HAFIS SALICH.

December 11, 1938. [297]

(Testimony of G. V. Dierst.)

Witnesses:

J. H. HANSON,

Special Agent, F. B. I.

S. R. MILLER,

Special Agent, F. B. I.

G. V. DIERST,

Special Agent, F. B. I.

810 South Spring Street

Los Angeles, California

(End of Government's Exhibit No. 7)

Mr. Harrison: If the Court please, I would like to ask counsel if they would stipulate with me that when there was more than one page to the various reports, that both pages were included in the testimony of the witness, or shall I proceed to examine him about each one of these in which there are more than one page? I thought we might save some time.

Mr. Stone: I would be very glad to stipulate with you to that effect, Mr. Harrison.

Mr. Packt: There were reports in these two volumes of reports marked Government's Exhibits 5 and 6 for identification, which consist, in some instances, of more than one page, and in some instances two or three pages, and I am willing to stipulate that when Mr. Dierst refers to the reports

(Testimony of G. V. Dierst.)

that in some cases he was referring to reports consisting of, perhaps, more than one page.

The Court: It may be so stipulated.

Mr. Pacht: Not, of course, that Mr. Salich gave any of those actual reports, or even exact copies of them, to Mr. Gorin.

(Witness continues) I called upon Mr. Gorin on the afternoon of December 12th, he was in his office, the office of Intourist, Inc., in the Chapman Building on South Broadway, Los Angeles. There was with me Agent Bott of the Federal Bureau of Investigation. We first saw his secretary and then we were taken into Mr. Gorin's office and at that time we had a conversation with him.

Mr. Harrison: If the Court please, I am of the opinion that it is not admissible as to the defendant Salich. [298] I believe that to be on the safe side that we should only offer it as to the defendant Mr. Gorin.

By Mr. Harrison:

Q. Just relate the substance of the conversation that you had at that time with Mr. Gorin?

A. Mr. Gorin was advised by me that we were making an investigation concerning information which had been turned over to him by Hafis Salich and asked that he come into our office to discuss the matter. Mr. Gorin advised that he would not come to our office and discuss the matter without prior authorization from his superior, and asked permis-

(Testimony of G. V. Dierst.)
sion to call the Russian Ambassador at Washington, D. C. He was told that there was no objection, for him to call the Russian Ambassador, whereupon he called his secretary into the office and asked her to place a call for Mr. Treyanovsky at Washington, the Ambassador at Washington, D. C. He was unable to get the Ambassador on the phone at that time. The secretary advised that the Ambassador was out, and asked him whether he wished to speak to anybody else. He inquired as to who was there and was advised that some other person, who I don't know, was there, and he stated that he would wait for the Ambassador. Mr. Gorin advised Mr. Bott and myself that it was the Russian Ambassador with whom he was speaking, and he talked with the Russian Ambassador in Russian, or a foreign language which I presume was Russian, and then advised us that the Ambassador had told him that he was getting in touch with the State Department in Washington and that undoubtedly within a very short time we—referring to Mr. Bott and myself—would hear from our superiors in Washington. In the meantime, we questioned him to a certain extent, and, during that questioning, he admitted that he knew the subject Salich, but would not state anything about Salich turning over any information—in fact he denied that Salich had turned over any information. He was asked about his employment and advised that he was not connected with the Russian Diplomatic Service, but

(Testimony of G. V. Dierst.)

that he was employed by the Russian Government through [299] the Intourist Bureau. He explained that under the Russian system of Government, all employees, or people who worked in Russia, or had anything to do with it, were employed by the Russian Government; but he had been employed by the Intourist Bureau of Russia and that he had come to America to take care of the Intourist end of the work in the United States. When I use the words "advised," "explained," and "admitted," I mean that he told myself and Bott of the matters that I said he advised us of, or explained to us.

(Witness continues) The conversation occurred around four o'clock I would estimate.

He was taken into custody later in the evening and before that he had additional telephone conversation. About an hour and a half after we arrived, he received two telephone calls from parties whom he said were the Ambassador at Washington, and on both of these calls he spoke in a foreign language. He repeated that the negotiations were being carried on in Washington between the Russian Ambassador and the State Department and that he hoped within a short time that the matter would be straightened out. After he was taken into custody, he had two conversations on the telephone. The first conversation was at the time he was first taken into custody after the complaint and warrant was read to him. He telephoned to the Ambassador at Washington and read the complaint and warrant

(Testimony of G. V. Dierst.)

over the telephone. He read that in English, because at that time we requested that inasmuch as he was under arrest that he confer with the Ambassador in English. He made no comments after he read the document to the Ambassador in Washington. While we were in Mr. Gorin's office, at midnight, the telephone rang, and he answered it, and we asked him who was speaking, and he said it was the Ambassador at Washington calling him, and we again requested he speak to the Ambassador in English so that we could understand his conversation. He held a conversation at that time. He merely explained or told the Ambassador over the telephone what was taking [300] place at that time; and that we were searching his office. There were no comments after he completed the conversation. Then Mr. Gorin was taken to our office at 810 South Spring Street.

I was present at the time that Mrs. Gorin was placed under arrest.

Whereupon defendant Gorin moved the Court to strike from the record and instruct the jury to disregard the whole of the conversations related by Mr. Dierst as having taken place with Mr. Gorin at the office of Intourist, upon the ground that none of it constituted an admission or confession and was not a part of the res gestae and did not in any way tend to prove any of the allegations in the indictment or any conspiracy between Mr. Gorin and Mr. Salich; and upon the further ground that

(Testimony of G. V. Dierst.)

when a rational of a foreign power is arrested in this country he has the right to call upon the Ambassador of his country and talk to him, and to seek his aid or assistance in connection with his arrest, and that any statement made upon such an occasion, unless it be by way of an admission or a confession, is inadmissible in evidence.

Said motion was denied. Exception allowed.

(Witness continues) I was present at the time that Mrs. Gorin was placed under arrest. This was at 141 North Irving Street. At that time there was present myself and agent Larmyeau, Anne Walling, a United States Deputy Marshal; Mr. Flemming, United States Deputy Marshal, Lieutenant William Maxwell of the United States Navy, and H. Bott was outside and subsequently came in. Mrs. Gorin was placed under arrest about five or 5:30 in the evening, I think about January 13th. It was the same date on which she was indicted. Mr. Gorin was not present when Mrs. Gorin first came home and was taken into custody, but came home shortly thereafter. I had a conversation with Mrs. Gorin in the absence of Mr. Gorin.

The Court: The jury are instructed to disregard the testimony as to the defendant Salich. [301]

The jury are instructed to disregard the testimony which is about to be related as a conversation between this witness and his associates and Mrs. Gorin in so far as the defendant Mr. Gorin

(Testimony of G. V. Dierst.)

is concerned until such time as it develops that he came into the conversation.

(Witness continues) At that time I had a conversation with Mrs. Gorin relative to a suit of clothes. I asked her where the suit was in which the \$50 and the note had been left at the cleaners in September, and she advised me that she had sent two suits to a cleaning establishment that day and that it was one of those suits. Mr. Bott proceeded to the cleaning establishment. In the interim two suits were delivered by a cleaning boy and Mrs. Gorin advised that those were not the suits, that undoubtedly the suit had been left over at the vice consulate on Vermont Street, from which they had moved. That is the substance of the conversation. Mr. Gorin returned home thereafter at about six o'clock, or shortly thereafter. I had a conversation with both; there was present Lt. Maxwell and the two Deputy Marshal previously mentioned, and Mr. Larmyeau.

The Court: Gentlemen, you are instructed to disregard the conversation that is about to be related by the witness in so far as it concerns the defendant Salich.

(Witness continues) Mr. Gorin, when he came in, was then asked specifically as to where the suit was in which he had left the \$50 and the paper at the cleaning *establishing* in September, and he advised me that it was left at the Vice Consulate's home on Vermont inasmuch as they had not moved

(Testimony of G. V. Dierst.)

all of their personal property over to that address on Irving Street. He was further asked as to whether it was his suit, to which he replied that it was his suit. The substance of the conversation was that he was asked where the suit in which he had left the \$50 and the paper in September was, and as to whether that was his suit, and he replied [302] that it was and he stated that that particular suit was left by him at the Vice Consulate home when he had moved over—when they had moved over from Vermont Street. At the time I had this conversation with him, Mr. Gorin was doing all the talking at that time. She was present. When Mr. Salich accompanied me to the office, he remained there until three o'clock in the morning of the 13th of December, 1938. He was placed under arrest earlier that evening, probably about eleven o'clock.

Mr. Harrison:

If the Court please, this is in no way involving either Mr. or Mrs. Gorin, and is offered for the purpose of, in order that the jury might have the whole situation as existed there at the time these statements were made, that have been referred to and have been introduced as exhibits.

The Witness: Mr. Salich was advised in answer to his question as to whether he was under arrest, he was advised on the evening of December 10th, or, I would say, he was readvised that he wasn't under arrest at that time.

(Testimony of G. V. Dierst.)

However, this matter was discussed with him as to remaining at the office. We advised him that we would like to have him remain at the office inasmuch as active investigation was being—taking place at that time, and that after all the facts had been accumulated and we had talked with Mr. Gorin, that we would present the matter to the United States Attorney, and Mr. Salich stated that he would be willing to cooperate in that respect, but that he wanted some limitation of time placed on that, and agreed that he would consent to that, with the consent it terminated on December 12, which was on Monday.

Cross Examination

By Mr. Stone:

I have not related everything that was said in the conversation with Mr. Salich, but I have related substantially [303] everything that had a bearing upon this case. There was quite a lot of conversation and there may be some points throughout it that I have overlooked. To the best of my recollection I have related the substance of the various conversations which I evaluated as being pertinent to this particular case. There was other conversation about, perhaps, personal history, etc., concerning Salich, that has not been gone into. I have presented the whole of any written statements which he made, with the exception of a consent which he

(Testimony of G. V. Dierst.)

signed, agreeing to remain in the custody of the office of the Federal Bureau of Investigation until December 12th. At the time we called at the apartment of Salich on December 10th, a search was made of his apartment. We found a lot of personal things which were turned back to you, and there was a lot of other matters which were not turned back, which might have some possible bearing on this, and were retained for the purpose of court examination or in case it became relevant. I don't have a chronological list of them with me here, but there is a list of them.

Cross Examination

By Mr. Pacht:

If the indictment against Mrs. Gorin was handed down on the 11th of January, I had the conversation at that time. It was approximately at 5:30. I interviewed them at their home at 141 North Irving Boulevard in this city. They told me that prior to that they had lived at 2315 North Vermont Avenue. Mr. Gorin may have said that the vice consul, who had rented that house, had left for Russia and that they were living out, so to speak, the unexpired term of that lease. I understood that during the investigation it came to my attention that the vice consul was not in Los Angeles at the present time, and that the Gorins were living there while the vice consul was away, and also at

the time when the vice consul was here. I refer particularly to 451 South Ardmore, which was the previous vice consulate. I don't know whether the vice consulate was on Vermont Avenue [304] at the time the Gorins resided there or not. While I was talking to Mr. Gorin, Mrs. Gorin was in and out of the room on a few occasions, from the living room into a bedroom. I don't know what she was doing. She was more or less in the immediate vicinity of Miss Walling, the matron from the Marshal's office. I was carrying on the conversation with Mr. Gorin. She was in the room part of the time that I was talking with Mr. Gorin, and she was out of the room in the next room part of the time. When I spoke to Mr. Gorin about this suit, he said that most of his effects, furnishings and clothing, and that of his family, were still at the North Vermont address. He stated that the suit which had been left at the cleaner's was at the vice consulate and he also offered to get that suit and bring it to the office. I didn't say whether I did or whether I didn't want him to do that; I didn't accept his offer to go to the vice consulate and get the suit. I didn't go to the Vermont Avenue address at any time; nor did I send anyone to get the suit.

By Mr. Pacht:

Q. Mr. Dierst, I now want to invite your attention to the conversation at the Intourist office when you talked to Mr. Gorin. You have related on

(Testimony of G. V. Dierst.)

direct examination having heard Mr. Gorin speak to the Russian Ambassador. Do you recall that?

A. I did.

Q. As a matter of fact, did not Mr. Gorin say —see if this doesn't recall the matter to your mind, Mr. Dierst—didn't Mr. Gorin say that the Russian Ambassador was not in Washington and was, in point of fact, not in the country, but that he was talking to the charge d'affaires?

A. I understood him to say the Russian Ambassador.

Q. Are you sure that he did not say the Russian Embassy?

A. No. He told me that he was talking with the Russian Ambassador. [305]

Q. Did you hear him call him by name during this conversation?

A. I heard him call by name, but I could not repeat the name; it being a foreign name; it passed by me very quickly.

Q. If I suggest this name to you, might it recall it to your mind? Did he say he was talking to Mr. Oumansky?

A. I rather think that is who he was speaking with, now that you refresh my memory on it.

(Witness continuing) Adverting to the conversation with Mr. Gorin on January 11, 1939, and the matter of the suit, it was specifically referred to by me as being the suit in which the \$50 and the paper

(Testimony of John H. Hanson)

had been left in by him at the cleaner's in September. I talked about the memorandum because that was the specific reason for my questioning him in regard to it.

JOHN H. HANSON

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By M. Neukom:

I reside at 2700 San Marino Street, Los Angeles. I am affiliated at present with Lockheed Aircraft Corporation in Burbank, California. I commenced that line of work January 1, 1939. Prior to that for approximately eight and one-half years, I was Special Agent in Charge of the Federal Bureau of Investigation, last stationed here in Los Angeles as the Special Agent in Charge up until December 30, 1938. I was working for the Department of Justice; and from September until the time that I went to work for the Lockheed Corporation in 1938 I was in charge of the Los Angeles office. I have heard the testimony of Special Agent Mr. Dierst with respect to this case. The case was assigned to him and other agents were assigned to assist him from time to time. On December 10, 1938, I saw Mr. Sálich in our offices, Room 603, 810 South [306]

(Testimony of John H. Hanson)

Spring Street; that is, in the offices of the F. B. I. This was at about noon. I was notified as soon as Salich was brought into the office, and I went back to Mr. Dierst's office, where Mr. Salich was with Mr. Dierst, and I engaged in a conversation with Mr. Salich. I had known Salich since about 1936, and, naturally, we exchange greetings.

Whereupon defendant Gorin objected to the relation of the conversation of the witness with Mr. Salich upon the ground that it occurred after the alleged conspiracy had terminated and defendants Gorin and Salich objected upon the grounds that the conversation did not concern or affect the national defense.

Objections overruled. Exception allowed.

By Mr. Neukom:

Q. I understand that you have stated that you knew Mr. Salich prior to that time? A. Yes.

Q. Now, will you relate the conversation as you recall it, which took place when you first met him then on December 10, 1938, in the office?

A. Well, as I have said, we exchanged greetings; and then the first question that Salich asked me was whether his coming down there was a pinch, or just what his status was. I informed him that he was not under arrest, that we were looking into his alleged relationship in furnishing information to Mr. Gorin of the Intourist, Inc. He said that he would have no hesitancy to tell us about his acquaintanceship and experiences with Mr. Gorin. So

(Testimony of John H. Hanson)

he then went back to, say, about 1935, when he, Salich, was affiliated with the Berkeley, California, Police Department. He had among his acquaintances on the police force an officer whose name slips my mind at the present time, but this officer was acquainted with the Russian [307] Ambassador, and the officer had also met the Vice Consul for Russia, a man named Aliavdin, or some other such name as that; that this man, Aliavdin, had since returned to Russia; that in about 1936, as Salich came down to Los Angeles to become connected with the United States Naval Intelligence, that Aliavdin looked him up down here; he saw him on two or three occasions, and Aliavdin wanted Salich to furnish some information about the Japanese. Salich said that he declined to do so; that he related the facts of that contact to Lt. Commander Roachefort of the Naval Intelligence. He said that then, either late in 1937, or the first part of 1938, Mr. Gorin got in touch with him, coming out to his apartment building with a letter of introduction; that Mr. Gorin related that fact over the telephone to Mrs. Salich, and that later on Salich looked up Gorin at his home and they had several visits, and thereafter Salich began furnishing to Mr. Gorin certain information about Japanese activities, and that he had received for furnishing that information \$1700. He related that the last time he had seen Mr. Gorin prior to our conversation on December 10 was on the preceding evening, and he said that

(Testimony of John H. Hanson)

the last time prior to that conversation that he had furnished any information to Mr. Gorin was on November 25, and that he had received from Gorin at that time—that is November 25, 1938—he had received from Gorin at that time \$200. He mentioned that the money that he had on his person at the time he was in our office, which consisted of a little over \$200, was the \$200 that he got from Mr. Gorin.

Q. What denomination was that money?

A. Four \$50 bills.

Q. Four \$50 bills? A. That is right.

Q. Now, this conversation, did it take place prior to the [308] time that Mr. Dierst was examining with Mr. Salich certain records from the Naval Intelligence?

A. Yes; it took place immediately after Salich came into the office. Mr. Dierst was present, and shortly thereafter, after this general conversation, we obtained the files of the Naval Intelligence, two sections of them, and we went through those files, and at that time Salich made a general statement that we could assume the contents of any of the reports about the Japanese had been given to Mr. Gorin, but we insisted that he go through and specifically identify, or we asked him to go through and specifically identify the different reports which he had, and Mr. Dierst made notes.

Q. But you didn't yourself sit down with him?

A. That is right.

(Testimony of John H. Hanson)

Q. You observed Mr. Dierst doing that?

A. That is right.

Q. Now, at this time, was there any discussion in any of this conversation, or did Mr. Salich refer to any statute or discuss with you any statute?

A. Yes. Mr. Salich stated that he did not believe that he had done anything wrong in furnishing this information to Mr. Gorin. He said that he had carefully studied the United States Espionage Statute and that he was positive in his own mind that he had not violated that law and, in fact, on December 11, when he was still in the office, and naturally he was wondering what was going to happen to him, what—whether the United States Attorney was to authorize prosecution, I gave him the United States Code Book, the Code Annotated, and he read over the Statute himself. There was one particular clause in there that impressed itself on his mind. He thought possibly because of that particular wording that he might have done something.

Q. Was it a book similar to the one I have in my hand (in- [309] dictating)?

A. It was a large book.

Q. A large book? A. Yes.

Q. Do you recall, offhand, what statute he read over in your presence?

A. No. All I can say is the espionage statute. He said the wording in the statute of "detriment to the United States," might be the reason why the

(Testimony of John H. Hanson)

United States Attorney would authorize prosecution.

Q. Now, was this conversation that you had on or before the time he had typed or signed a written instrument?

A. All of the conversation that I have related, excepting about reading the statute book, was prior to the time that he had written up his own statement. He started writing that late on the afternoon and evening of December 10. He actually looked at the code book on the 11th.

Q. But had he had any discussion with you with respect to the statute prior to the time that he actually read the code book itself? A. Yes.

Q. What date?

A. That was on December 10.

Q. Will you explain to the jury as to what statute books, what code books, were referred to, whether it was a Naval Code book, or whether it was the United States Statute?

A. The book that I referred to contains the United States Statutes.

Q. And the one that Mr. Salich on December 10, 1938, told you that he had read the statute pertaining to espionage, did that pertain to the United States Statutes?

A. The United States Statutes, that is right.

[310]

Q. You had a discussion of the general nature of those statutes? A. Yes.

(Testimony of John H. Hanson)

Mr. Pacht: I now move to strike the whole of the conversation just related by the witness with Mr. Salich on behalf of the defendants Gorin, and each of them, upon the ground that this conversation occurred after the termination of the alleged conspiracy, constitutes hearsay as to these moving defendants, and further, that there has been no proof of any conspiracy, and when your Honor has ruled upon that, I would like to make a specific motion as to a particular part of this conversation.

The Court: The motion to strike will be denied.

Mr. Pacht: May I be allowed an exception?

The Court: An exception.

Mr. Pacht: I now move to strike that part of the conversation related by Mr. Hanson as to what was done and said by Mr. Hanson and by Mr. Salich with respect to the United States Annotated Code, and/or the Espionage Statute, his interpretation of it, or what he thought with relation to the statute.

The Court: Gentlemen of the jury, as to that portion of the testimony of this witness having to do with his examination of the United States Code or the United States Statute on this particular occasion, you shall disregard insofar as the defendants Gorin are concerned.

Mr. Stone: May I join in that, your Honor, on behalf of the defendant Salich, upon the ground that it does not constitute an admission and has no tendency to prove or disprove any issue in this case?

(Testimony of John H. Hanson)

The Court: As to the defendant Salich the motion will be denied, it being in the Court's mind one of the elements having to do, possibly, with intent. An exception is allowed.

(Witness continues) Later on in the afternoon and night [311] of December 10 when I had occasion to go back to Agent Dierst's office where Mr. Salich was located, I observed him typing out a statement and he at that time informed me that he was writing out an account of his experiences with Mr. Gorin. Government's Exhibit No. 7 for identification which you are showing me is the statement that I observed Mr. Salich writing out and in fact on December 11, late in the forenoon when I was in the office I was informed that he wanted to sign this statement and I went back there and he signed it in my presence, and at my request signed each of the pages of the statement. That is my signature in pen and ink, "J. H. Hanson, Special Agent, F. B. I." It was put there at the time Mr. Salich signed that statement.

Cross Examination

By Mr. Stone:

These conversations which I have described are the same conversations concerning which Mr. Dierst testified. I have told the substance of those conversations. I testified that Salich read what I called the Espionage Act, and at the conclusion of that reading he pointed to some wording concerning

(Testimony of John H. Hanson.)

"detriment of the United States," and said that might affect the opinion of the United States Attorney. He did not say "If this information affects the defense of the United States, that would affect the opinion of the United States Attorney." As he read the statute, as his eye hit the word "detriment," a thought occurred to him that it would possibly be on those particular words that the United States Attorney would make his decision. Nothing was said about the facts at that time. Nothing was said about whether or not it affected the national defense. He was thinking about the opinion of the United States Attorney. Nothing was said about the words of the statute relating to or affecting the national defense.

We naturally went through his effects. We asked him if we could see everything on his person. He permitted us to look at [312] everything. We listed the money and it was returned to him, and we obtained a receipt.

WILLIAM S. MAXWELL,

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Neukom:

I am a Lieutenant in the United States Navy assigned to the regular line branch of the Navy, at present time stationed at the Eleventh Naval Dis-

(Testimony of William S. Maxwell.)

trict, San Diego, California. It is what they call the line branch of the navy; that branch that is the commanding branch of the Navy. In other words, it is the branch of the Navy which has command, authority, other than the staff cords. At the present time I am assigned to the office of the Naval Intelligence, that is, the Eleventh Naval District Office, of which the head is Commander Zacharias, who is my superior officer. I was born in Russia. I entered the United States Navy the early part of 1917; and was commissioned a Lieutenant in the Navy on one, July, 1936. Naturally I speak the Russian language. I have met Mr. and Mrs. Gorin. The first time I met Mr. Gorin was on the 14th of December, 1938, at the County Jail, at about 9:30 in the evening; I, in company with Dierst and Mr. Harrison and a Mr. Ivanunshkin, who introduced himself as a Russian consul, and a Mr. Stepanian, who was his escort, and also there was a Mr. Frankel, who, I believe, introduced himself as a local attorney of Los Angeles.

Mr. Stone: Your Honor, may I inquire if this is offered as against the defendant Hafis Salich?

Mr. Neukom: No, your Honor; this would not be binding as to the defendant Hafis Salich.

Mr. Pacht: This might properly better be made as a motion to strike—I don't know what the witness is going to tell about it—but from the nature of the question I think that it is irrelevant and [313] immaterial as to the defendant Mikhail Gorin,

(Testimony of William S. Maxwell.)

because it does not constitute any admission or confession and is irrelevant as to any issue being tried here.

The Court: The point will be considered as having been presented in a timely manner and made as a motion to strike.

(Witness continues) There was a conversation in the presence of Mr. Gorin as to who this person was, Mr. Ivanunshkin. I was down there at the County Jail to understand any language in Russian. Mr. Ivanunshkin spoke to Mr. Gorin when he appeared; they exchanged regular salutations in Russian. Mr. Gorin came out with his arms folded, and he asked him: "How are you?". Mr. Gorin replied, "Very well. Thank you."

And the next question was: "How are you feeling?" And he said, "Fine." And the next question was, he asked Mr. Gorin why his eyes were swollen; and Mr. Gorin says, "Why, I feel all right. There is nothing wrong with me." And then he asked him as to his treatment. He was generally very much concerned with Mr. Gorin's treatment. He asked about his eyes. At that time they were rather swollen. Mr. Ivanunshkin asked Mr. Gorin the reason why his eyes were swollen, and Mr. Gorin's reply was that he felt fine, that he has no reason to offer. Then Mr. Ivanunshkin asked him: "Well, what has happened?" And Mr. Gorin replied, "Well, don't you know? Haven't you been reading the papers?" And Mr. Ivanunshkin replied, "You can't always

(Testimony of William S. Maxwell.)

get facts from the newspapers." And the next question was: "Have you spoken to anyone in connection with this arrest?" Mr. Ivanunshkin said that, and Mr. Gorin's reply was, "No, I haven't said anything about it." And the next question was: "That is fine." Mr. Ivanunshkin replied, "That is fine; we will say nothing about it nor make no statements about it." And the next question was: "We will make no statements in connection with the papers founds in the suit." Mr. Ivanunshkin said that, whoever he was. Mr. Gorin didn't say very much; Mr. Ivanunshkin did most of the talking. [314]

Mr. Pacht: I think sufficient of this conversation has been related to make it apparent that this conversation does not constitute a confession, or an admission; no evidence of who this man was, and none of this tends in any way to prove the commission of any crime, or the proof of any allegation in the indictment. My objection does not go to the question of who this man Ivanunshkin was. My objection goes to the merits of the conversation, to the substance of the conversation that was had there, that anything that this particular person told him is of no proof and does not constitute any proof of any offense. I will stipulate with the District Attorney that this gentleman whose name we both have considerable difficulty in pronouncing was, at the time, the Russian Vice Consul from New York, an accredited Russian Vice Consul, stationed in New York.

Mr. Neukom: We are willing to accept that stipulation, your Honor.

The Court: Very well, it may be received.

(At this point, the following proceedings were had between Court and counsel at the bench, outside the hearing of the jury:)

Mr. Harrison: If the Court please, we expect to have this witness testify, in effect, that Gorin—that this Vice Consul told him in effect, "We will make no admissions except you know the other party involved, you have no knowledge of any articles found in your suit at the cleaning shop."

That was the statement made in Russian by this man that arrived here, that had just arrived, and who made this statement to him, and the defendant simply acquiesced.

Mr. Pacht: I think—the interview with this man in the County Jail, he is a diplomatic representative of the Government of which he is a national, and he undertakes to give him advice. Gorin is wakened from his sleep and is told this. Now, there is [315] no obligation on his part under those circumstances to speak or to say he will take the advice or he won't take the advice. There is nothing he could do about it. The man comes here and tells him to do this. How can that possibly charge this man with any guilt?

The Court: As an isolated circumstance, that might be true, and the Court would consider that it was inadmissible, but as one of the series of this

kind, it seems to me that the jury may consider it of such weight to give it some consideration. It seems, like in one of the other instances, as having very little weight, but still it seems to me it is admissible as one of a series which I believe the Government is entitled to show; otherwise the proof of a conspiracy is almost impossible because almost all of it is the combination of little items which go to make up the whole and, therefore I think we have to be more lenient so long as no substantial injustice seems to be done here, and I will protect the situation with proper instructions. I believe each of these elements is entitled to go to the jury. Here is a question as to intent and as to his connections with the Russian Government. Here is an accredited Russian representative that comes out and instructs this man as to certain things. I have got to let it in.

The Court: Gentlemen of the jury, as suggested by counsel for one of the defendants, the only object of these conferences at the bench is to avoid the necessity of sending the jury to the jury room and then having the matter discussed in open court. It saves time to do it this way.

After the representations made the motion to strike and the objection—the motion to strike will be denied and the objection will be overruled and an exception will be allowed with the understanding that if the connection is not properly made during the trial that the testimony will be subject to a mo-

(Testimony of William S. Maxwell.)
tion to strike on behalf of the defendant Mikhail Gorin.

By Mr. Neukom: [316]

Q. Now, Lieutenant Maxwell, after the preliminary introductions, do you recall what Vice-consul Ivanunshkin stated to Mr. Gorin in Russian in your presence, the substance of it?

A. Yes, sir. He asked Mr. Gorin whether or not he discussed the case with anyone. Mr. Gorin's reply was he had said nothing about the case. Mr. Ivanunshkin replied, "That was fine," and the next question was, well, we will make no admissions whatsoever except that we knew the other fellow, or the other man.

Q. Did he make any comment with respect to a suit? A. He stated—

The Court (Interrupting): Who do you mean by "he"?

The Witness: Mr. Ivanunshkin said to Gorin, "Mr. Gorin," that, "well, we will admit—we will admit nothing which was found in the suit at the cleaning shop."

By Mr. Neukom:

Q. Now, was there any further conversation with respect to that there, as you recall, that evening?

A. There was considerable questioning by Mr. Ivanunshkin as to Mr. Gorin's welfare and comfort, as to his treatment that he was receiving while in the jail. Mr. Ivanunshkin was particularly in-

(Testimony of William S. Maxwell.)

terested in Mr. Gorin's general health and the treatment that he was receiving and asked how he was feeling.

Q. Was there any conversation with respect to the release of Mr. Gorin?

A. Yes. Mr. Gorin asked Mr. Ivanunshkin approximately when he would be released and Mr. Ivanunshkin replied it may be tomorrow or the day after tomorrow, that it takes a little time to arrange for the release. He also stated—Mr. Ivanunshkin also stated that he had just arrived two or three hours ago and he hadn't had an opportunity to make any arrangement whatsoever.

Mr. Pacht: I move the Court to strike the whole of the testimony given by Lieutenant Maxwell as to the conversation which [317] took place at the County Jail between Vice-Consul Ivanunshkin and Mr. Gorin and any of those present, upon the ground that none of it constitutes an admission against interest or a confession nor is there anything to indicate that there was any duty or obligation on the part of Mr. Gorin to make any reply to what this man Ivanunshkin advised him to do or told him to do. There was no duty upon his, Gorin's part, to speak and for all of those reasons I move to strike the whole of that testimony and ask the Court to instruct the jury to completely disregard the conversation as related by Lieutenant Maxwell, and it is immaterial to prove any issue alleged in the indictment.

(Testimony of William S. Maxwell.)

The Court: It isn't possible to say definitely whether or not that may be true, but at the time the motion will be denied and an exception allowed. If, later in the trial, it appears that the connecting links have not been supplied the motion may be entertained.

(Witness continues) After this incident, I saw Mr. Gorin on the street here in Los Angeles towards the first of this year, January 1939. That was about the 3rd of January 1939, at about 1:30 p. m. in the afternoon in front of the Chapman Building—I think it is on Spring Street—downtown, Los Angeles. Mr. Gorin spoke to me. I was standing in front of the building reading the newspaper when he recognized me and we exchanged greetings and he asked me to come up to his office in the Chapman Building, which I did. I had a conversation with him there. Just Mr. Gorin and myself were present.

.The Court: The jury are instructed to disregard this conversation as to the defendant Salich.

(Witness continues)

Mr. Gorin sat down at his desk and stated to me as follows: He informed me that the information which he obtained was in no way, shape or form detrimental to this country. He was very [318] emphatic in that. He further told me that when the agents from the Federal Bureau of Investigation entered his office, that he did not try to cover anything up; that he opened his drawers and told them

(Testimony of William S. Maxwell.)

that they were welcome to anything in his office. He also told me that one of his drawers was locked, for which he couldn't locate the key, that he broke that drawer in order for them to get in that particular drawer. The conversation continued along the lines where the Russian people as a whole were friendly to this country, and always have been; that Russia is not interested in anything pertaining to the national defense of this country, the United States. His remarks were very, very emphatic as to the friendly relation that Russia and this country have had in the past, and will continue to have.

Cross Examination

By Mr. Pacht:

I got to the County Jail on the evening which I have described around 9:30 p. m. We waited there for about twenty minutes for Mr. Stepanian and Mr. Ivanunshkin to arrive. I couldn't say whether Mr. Gorin was asleep when we got there. I do know that it took about fifteen minutes. We waited about 15 minutes before Mr. Gorin appeared. I don't know what time the prisoners in the County Jail are ordered to bed.

Assistant District Attorney, Mr. Neukom, then proceeded to read to the jury from the original Government's Exhibit No. 2, the stipulation portion of which having theretofore been read to the jury and appearing in a previous portion of this Bill of Exceptions, the same reading as follows:

(Testimony of William S. Maxwell.)

GOVERNMENT'S EXHIBIT No. 2

Names of aliens:

Gorin, Michael, 31 m. married.

Nathalie, 29 f, wife.

Villy, 6 m, son.

Russia—Russians.

Before a Board of Special Inquiry held at Ellis Island, New York Harbor, N. Y., January 10, 1936. 2:45 P. P.

Present: Messrs. Calvin (Chmn) Hibler & Monahan. [319]

Alien stated he has a three year contract with Entourist Agency in New York. Alien has Russian passport valid till October, 1936. Has contract to remain in the United States for three years.

No. Immigration visa (C. L.) Insp. Ferro.

S. I. 1. SS Europa, North German Lloyd Line, First Class.

Arrived in New York Harbor on January 10, 1936.

Delivered at Ellis Island January 10, 1936, 2.00 P. M.

Elder Aliens sworn by Insp. Galvin, testified in English:

My name is Michael Gorin, 31 years of age, married. Traveling with my wife, Nathalie, 29 years of age, and my son, Villy, 6 years of age. We arrived on the SS Europa leaving Cherbourg on January 1, 1936. I was born in

(Testimony of William S. Maxwell.)

Verhnie Dobrovka, Russia, on October 24, 1904, where I have my mother, Raisa, in good health. My wife was born in Saratov, Russia, on August 15, 1906, where she has no relatives. My son was born in Isphahan, Persia, June 6, 1929. My family and I have been living in Moscow, Russia, where we have no relatives.

My wife and I ~~are~~ read.

The Entourist Bureau of Moscow paid our passage.

I am a representative of the tourist business. Housewife; school boy.

Never in the United States.

Going to the Amtorg Trading Corporation, 261 Fifth Avenue, N. Y. City.

No money.

When I left Russia I was told I would be in the United States for two or three years.

Passport of the Union of the Soviet Socialist Republic, in the name of the male alien, No. 02431/24549, issued at Moscow, Russia, November 17, 1935, valid for a period of one year from the date of passing over the border. (Passport indicates that the alien passed over the border on December 29, 1935). Passport endorsed with [320] visa No. 93, dated at the Consulate, Moscow, Union of the Soviet Socialist Republic, December 11, 1935, over the signature of Ellis A. Johnson, Vice Consul of the United States.

(Testimony of William S. Maxwell.)

Visa granted under Section 3 (2) of the Immigration Act of 1924 as temporary visitors, and in the case of the female applicant and child there is shown passport of the Union of the Soviet Socialist Republic No. 02432/24550, dated at Moscow, November 17, 1935, valid for one year from Dec. 29, 1935, the time of crossing the border. Passport endorsed with visa No. 81, dated at the Consulate, Moscow, Union of the Soviet Socialist Republic on December 9, 1935, over the signature of Ellis A. Johnson, Vice Consul of the United States. Visa granted under Section 3(2) of the Immigration Act of 1924 as temporary visitors.

Never debarred or deported from the United States or Canada.

Q. You have the right to have a friend or relative present at this hearing; do you wish to avail yourself of that right?

A. I waive the right.

Q. Just why are you and your family coming to the United States?

A. For work at the Amtorg Organization.

Q. You previously testified you were coming here to go to the Entourist Bureau. What connection is there between the Entourist Bureau and the Amtorg Trading Corporation?

A. It is a department of the Amtorg Trading Corporation.

(Testimony of William S. Maxwell.)

Q. Just what are you to do here for the Amtorg Trading Corporation?

A. I will be a Director of the Tourist Department.

Q. Just what will your duties be?

A. We have a big tourist organization in America. Plenty of tourists go to Russia and I will organize tourist parties from America to Russia.

Q. In what way were you employed before coming to the U. S.?

A. In the Entourist Department in Moscow.

[321]

Q. How long have you been connected with the Entourist Corporation in Moscow?

A. Seven years.

Q. What salary are you to receive while here in this country?

A. 300 United States Dollars per month.

Q. By whom will you be paid?

A. By the Entourist Organization here.

Q. Are you coming to the United States for any purpose other than to act as Director in the Entourist Bureau of the Amtorg Trading Corporation? A. No.

Q. Just how long do you plan to stay here?

A. Two or three years.

Q. Where are you going after your two or three years visit to this country?

A. Back to Russia.

(Testimony of William S. Maxwell.)

Q. Is there any likelihood that you will be recalled by your organization before the expiration of two or three years? A. Yes.

Q. Are you in any way interested in the social or political conditions in this country?

A. No.

Q. Have you been instructed by any of the superiors of your organization to make observations of the political or social conditions here?

By Insp. Hibler:

Q. Who is to pay your salary while you are in this country? A. The Entourist.

Q. Are you to be paid by the Amtorg Trading Corporation or by the Russian Government? [322]

A. By the Russian Government through the Amtorg.

Q. Are you to receive any expenses while in the United States besides your salary?

A. No.

The remaining questions for the time being were those propounded to the wife, and they read as follows:

To the wife, by Insp. Galvin:

Q. Just how do you expect to devote your time in this country?

A. Keep house for my husband and take care of the child.

Q. Have you any blood relatives in this country? A. No.

(Testimony of William S. Maxwell.)

Q. If your husband is recalled some time within two or three years are you to accompany him back to Russia? A. Yes.

Q. While you are here do you plan to enter any educational institution?

A. No, but I might want to study the English language.

Q. Have you a profession of your own?

A. No.

Q. Are you interested in any way in social work? A. No.

Q. Will you engage in any outside activity aside from keeping house for your husband and child while you are here? A. No.

By Insp. to the boy:

Q. What is your name?

A. (Thru Interpreter Dworzecki): Villy.

Q. Did you ever go to school?

A. No.

Q. Do you expect to go to school while you are in the U. S.? A. Yes. [323]

Witness sworn by Insp. Galvin, testified in English.

Q. What is your name?

A. Nathan Post.

Q. Where do you live?

A. 1081 Anderson Avenue, New York City.

Q. Of what country are you a citizen?

A. I am an American citizen now.

(Testimony of William S. Maxwell.)

Q. Have you your citizenship papers with you? A. No.

Q. In what year and in what court were you naturalized?

A. In 1924 in the Supreme Court, New York City.

Q. What is your business?

A. I work for the Amtorg Trading Corporation for the last six years.

Q. What do you do for them?

A. My duty is to receive the people who are sent here from Russia and prepare the documents to go back.

Q. What is your interest in the Gorin family?

A. They came to the Entourist Department of the Amtorg Trading Corporation.

Q. Speaking of Mr. Gorin, just what will his duties be?

A. He is one of the Directors of the Entourist Department.

Q. Just how long will he remain in the United States?

A. The Director stays some times two or three years because this is an important business.

Q. Is the Amtorg Trading Corporation to be responsible for his salary and all incidental expenses? A. Yes.

(Testimony of William S. Maxwell.)

By Insp. Hibler to the witness:

Q. Do you know where Mr. Gorin is going to stay?

A. He will stay at the Hotel Aberdeen for a little while. [324]

Q. What is Mrs. Gorin to do here?

A. Just her housework.

Q. Has she a position under the Amtorg?

A. No.

Q. Is she to receive any salary?

A. No.

Q. What is the amount of salary Mr. Gorin is to receive?

A. I don't know how much per month; about \$250 or \$275 per month.

Q. Has Mr. Gorin a contract with the U. S. S. Republic?

A. He has no signed contract but they sent him here to the Entourist Department of the Amtorg Trading Corporation, and by reason of his being sent here the Amtorg will be responsible for him.

Q. Is it not possible for the Amtorg to obtain a man in the United States to take charge of the tourist business? A. No.

Q. Why not?

A. This is special work for the Entourist as only a Russian man can do it.

By Mr. Hibler: I move to admit all three aliens under Section 3(2) of the Act of 1924, for a period not to extend beyond Oct. 28, 1936.

(Testimony of William S. Maxwell.)

By Mr. Monahan: Seconded.

By Mr. Galin: Unanimous.

By Mr. Galvin to elder alien:

You, your wife and child have been admitted to the United States temporarily for a period of time not to extend beyond October 28, 1936. If later you should find it necessary to remain longer than that period you will see that your passport is revalidated for a period of time at least sixty days beyond the time you desire to remain here and make formal application through the Amtorg Trading Corporation for an extension of time? [325]

A. I understand.

I hereby certify that the above, consisting of five pages, is a true and correct transcript of the stenographic notes recorded by me.

(Signed) J. J. MONAHAN,

Secretary.

(End of Government's Exhibit No. 2)

ELIAS M. ZACHARIAS,

called as a witness on behalf of the Government, being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

I have been connected with the United States Navy a little over thirty years. My first connection

(Testimony of Elias M. Zacharias)

commenced at the United States Naval Academy, Annapolis, Maryland. I am a graduate of that institution, and since that time have been actively connected with United States Navy, and am still so connected. I have followed the regular line of duty assigned to officers in the line of the Navy, that is the command branch of the Navy, which is composed of certain terms at sea and certain terms on shore. At sea my duties have been those required by the training to fit an officer for command rank, and those on shore have been practically entirely connected in intelligence work. I have been a Commander approximately six years, and have been connected with intelligence work directly and indirectly about twenty years. I am assigned to the Eleventh Naval District Headquarters at San Diego, and serve as District Intelligence Officer, and have served in that capacity in this area since May 13, 1938. The Eleventh Area consists of Southern California as far north as Kern and San Luis Obispo Counties, and the states of [326] Arizona and New Mexico. The main office is in San Diego at the District headquarters, and we have a branch office at San Pedro where there is stationed an assistant District Intelligence officer. The San Pedro branch office is under my direct control, and Lt. Clayborne is in charge. He has been in charge since the latter part of May, 1938. I know the defendant Salich, and first became acquainted with him

(Testimony of Elias M. Zacharias)

shortly after I assumed the duties as District Intelligence officer. I have talked in the presence of Mr. Salich relative to his duties. He had the status of a paid employee without contract. He is paid by cash check by the Assistant District Intelligence officer. These are not checks of the United States Treasury or of the United States Navy. The funds from which he is paid come from my office. I never at any time had any conversation with Salich as to the method of payment. He was employed before I became Commander of this area. I do know that he was paid with checks payable to cash. The employees, and those working in connection with the Naval Intelligence at San Pedro, are working under my direction. All activities engaged in by that office, and all reports received in that office are submitted to me. They work under my orders.

By Mr. Harrison:

Q. Commander, have you had under your supervision the defendant Salich as investigator?

A. I have.

Q. And what were his duties as such investigator?

A. To collect information or data on individuals suspected of obtaining or attempting to obtain information relating to the Naval establishment. Information on individuals engaging in or making preparations to engage in sabotage of the Naval establishment, or activities directly connected with

(Testimony of Elias M. Zacharias)

the defense efforts of that Naval establishment. Individuals engaged in or attempting to engage in subversion of personnel, looking to the nullification of [327] the defense efforts of the Naval establishment, or actual immobilization thereof.

Mr. Pacht: I move to strike out the whole of the answer of the witness upon the ground that the answer as given by the witness has added to, and is an attempt to add to, the provisions of the Espionage Act, as set forth in Sections 31, 32, and 34, Title 50.

The Congress itself has made no such specifications in the statute, has not given such a broad definition of the term "national defense" as Commander Zacharias in his answer has indicated, and that the opinion and conclusion of Commander Zacharias as to the purpose of the Act and as to its provisions and as to the work which any agent or employee working under Commander Zacharias is incompetent, irrelevant and immaterial for any purpose in this case.

Mr. Stone: May I join in that objection, your Honor.

The Court: The motions on behalf of all of the defendants will be denied.

Gentlemen: The law in this case you will take from the Court. Counsel for the Government or the defendants, or the witness, or anybody else, has no power to read anything into the statutes of the United States. At the proper time and under the

(Testimony of Elias M. Zacharias)

proper circumstances, in instructing this jury, the Court will define the term "national defense," and will give you explicit instructions as to the law involved. This testimony is being taken, not to instruct you as to what the law is, but simply as to the fact of what the men were directed by their superior officer to do, what the scope of their activities was. It is merely a fact.

The Court: Exception to all concerned.

Q. Commander, when you mentioned the Naval establishment, [328] what did you mean by that expression?

To which question defendant Gorin objected on the ground that it is specifically described in its relation to any violations of the Espionage Act and Section 31, subdivision (a) of the Espionage Act, and that it called for the opinion and conclusion of the witness.

Objection overruled. Exception allowed.

The Witness: The Naval establishment are those enterprises necessary for the operation of the Navy in time of peace and in war. It comprises ships, airplanes, repair bases, operating bases, communication centers, ammunition depots, armament factories, naval aircraft factories, fuel depots, and such correlated activities.

Defendant Gorin moved to strike the whole of the answer of the witness upon the ground that, under the guise of answering a question apparently call-

(Testimony of Elias M. Zacharias)

ing for a statement of fact, the witness had given to the jury his interpretation of what the Naval establishment consisted and added a specification to the statute which was not contained therein, and that the answer of the witness was a conclusion and opinion upon matters defined by subject.

Motion denied. Exception allowed.

In overruling the objection the Court stated as follows:

The Court: The jury have been explicitly instructed that no one reads anything into the statutes; that that is simply the explanation of what this witness means by his testimony in the previous question as to Naval establishment.

(Witness continues) There was a time when I talked in the presence of Mr. Salich relative to his duties and the functions of the Office. I recall distinctly two occasions. The first was at a meeting in the office of the Assistant District Intelligence Officer at San Pedro, attended by individuals connected with the Naval Intelligence Service, among them Mr. Salich, shortly after I [329] assumed my duties as District Intelligence Officer. There was present besides Mr. Salich, Lt. Clayborne, Mr. Stanley and certain members of the Intelligence Service. Mr. Hanna was not present.

Q. Will you state what you said at that time, concerning [330] the nature of the work that your investigators were doing?

(Testimony of Elias M. Zacharias)

Mr. Pacht: Pardon me—

Mr. Stone (Interrupting): To which I object, your Honor, upon the ground that it has no tendency to prove or disprove any of the issues involved in this action.

The Court: The objection will be overruled. Exception allowed.

Mr. Harrison: I assume, if the Court please, that it is understood that this testimony is not binding upon either Mr. or Mrs. Gorin?

The Court: Yes. The Government states that it is offering this testimony only as binding upon the defendant Salich. The Gorins not being present on this occasion, they are not to be bound by anything that is revealed in connection with this conversation, and you are instructed to ignore the conversation in so far as the two defendants Gorin are concerned.

Mr. Pacht: Notwithstanding the statement of the District Attorney, as to who he is attempting to bind by this statement, I nevertheless object, on behalf of the defendants Gorin, to the relation of the conversation, because the relation of it is, in our opinion, prejudicial, or would prove prejudicial, to these defendants, in that it will enlarge upon the provisions of the Espionage Act upon which this prosecution is being had, and read into it words and specifications therein present not contained;

(Testimony of Elias M. Zacharias)

and it is irrelevant to prove either a conspiracy or any of the allegations of the indictment, or any count thereof.

The Court: The objection is overruled.

Mr. Pacht: Exception.

The Witness: At that time I recounted the situation surrounding the espionage trial in New York recently completed. I told of the activities connected with that case, with which I was directly connected four years previously, and I emphasized to that group [331] the vulnerability of information for the purpose of impressing upon them the necessity for properly safeguarding information. It was at that time that I stressed the necessity of keeping from anyone information developed, and pointed out that human beings have the frailty of desiring to tell what they had done, or what they had accomplished. And it was on that occasion, to impress this fact upon them, that I made the remark, after stating that they should not even tell things of this nature to their wives or families, that I said, "You must get your glory out of the accomplishment and", as has already been testified in the court, I did make the statement that "intelligence work, like virtue, is its own reward". I have given the substance of the first statement I made in the presence of Mr. Salich.

Mr. Pacht: If the Court please, I move to strike this testimony particularly because the Commander

(Testimony of Elias M. Zacharias) has brought into his answer a prosecution under the Espionage Act and has brought before this jury a prosecution under the Espionage Act which he says took place in New York that has injected into this case issues not presented by the indictment and is prejudicial to the defendants, so that the jury is bound to speculate or may speculate upon the outcome of that case in New York.

Mr. Stone: I have a separate objection, a motion to strike upon the ground that the answer is opinion testimony upon a subject upon which opinion testimony is not permitted.

The Court: The motions will both be denied.

Gentlemen of the jury, this witness is simply testifying as to what he told Mr. Salich and others at this conference. What he said may conceivably be true. It may conceivably be false. It is conceivable that he might have told the men that the moon was made of green cheese. It is not offered for the purpose of proving the truth or falsity of those statements but is offered for the [332] purpose of showing what was told to this defendant at that particular time. You are not to acquire any prejudice of any sort by virtue of any of these statements, particularly as to the defendants Gorin who were not present during that conversation.

Exceptions allowed.

(Witness continues) There was a second occasion when I talked in the presence of Mr. Salich

(Testimony of Elias M. Zacharias)

at our office. When I say "our office" I mean the office of the Naval Intelligence at San Pedro. It was just prior to the time at which the American Legion Convention was held in Los Angeles. I think it was the fall of the year 1938. This conversation took place at the same office, the office of the Assistant District Intelligence Officer at San Pedro. It was in the evening, and there were present Lt. Clayborne, Mr. Stanley, Mr. Salich and certain individuals connected with the Intelligence Service or Intelligence Reserve Organization.

Q. And, what was said at that time relative to the nature of the work of the Naval Intelligence or the nature of the work of its investigators in this area?

M. Packt: To which we make the same objections as noted in support of our objection to the previous conversation; they do not prove any allegation in the indictment, and the other grounds asserted.

The Court: My understanding is that it is not claimed the Gorins were present at this conversation?

Mr. Harrison: It is not claimed they were present, if the Court please, and we are taking exactly the same position on this conversation as we did with the previous one.

The Court: Gentlemen of the jury, the Government states that they are offering this testimony as

(Testimony of Elias M. Zacharias)

applicable only to the defendant Salich, and that it is not binding upon or intended to be binding upon the defendants Gorin, and you are instructed to ignore [333] the substance of the conversation in so far as it has to do with the defendants Gorin.

Mr. Stone: May the record show an objection, your Honor, on behalf of the defendant Salich upon the grounds already stated?

The Court: The objections will be overruled and an exception allowed to all defendants.

By Mr. Harrison:

Q. You may proceed, Commander.

A. I outlined to them the subversive activities which I considered were going on in the United States and said to them that I considered the activity of all such groups and organizations to be identical in that they were all looking to entrenchment of themselves to be able to control the defense efforts of the United States in time of an emergency in which they might become involved.

Mr. Pacht: I move to strike the answer of the witness.

The Court: The motion is sustained. The answer will be stricken.

Mr. Pacht: I ask your Honor to declare a mistrial upon the ground that the statement made by the witness, apparently in answer to a question of the District Attorney, is in substance an inflammatory address to the jury concerning the duties and

(Testimony of Elias M. Zacharias)

obligations of all citizens with respect to the national interests of the United States.

The Court: The motion will be denied.

Mr. Facht: Exception.

The Court: It seems to me this jury understands what the situation is and that they will not be prejudiced in any way by any person's views.

I have been very careful to caution you that you will take your interpretations of the law from the Court. The conversation will be stricken because it does not seem to the Court to be material [334] to any of the allegations here before us. These conversations are admitted on the theory that from a construction as to the confidential nature of the material, the jury may be able to gather information to be used in determining whether the intent required by the statute was present in the defendant Salich.

May I caution the witness to confine his revelations of the conversation to that particular phase of the matter having to do with the instructions given to the defendant Salich and others as to the confidential nature of the work.

(Witness continues) The method in which the information gathered in the operation of the office at San Pedro is handled is, that information coming into that office is put into smooth form by Lt. Clayborne and copies, the original of his smooth form; with appropriate copies, are forwarded to

(Testimony of Elias M. Zacharias)

me in San Diego. Carbon copies of these reports are received at San Pedro. I am familiar with the files at the San Pedro office.

Whereupon it was stipulated that the papers in Government's Exhibits Nos. 5 and 6 for identification were from the office of the Naval Intelligence files.

Mr. Harrison: Now, if the Court please, we desire to offer in evidence report number designated as 833.

To which offer objection was made on behalf of the defendant Gorin upon the following grounds:

1. That no proper foundation has been laid for the introduction of said writing, for the reason that it has not been shown, and there is no evidence to prove, that said report, or any part thereof, relates to or is connected with the national defense of the United States.
2. That said report on its face shows that it is not a part of and is not connected with and does not relate to the national defense of the United States as that term is used in Sections 31, [335] 32 and 34 of the Espionage Act.
3. That said report is not an instrument, writing, or document connected with or relating to the national defense as that term is used in Sections 31, 32 and 34 of the Espionage Act.
4. That said report on its face shows that it is but a communication by one officer of the United

(Testimony of Elias M. Zacharias)

States Navy to another officer of said Navy reporting certain information acquired by said reporting officer concerning the acts and conduct of certain persons in the United States, and that it is not connected with nor does it relate to the national defense of the United States as that term is used in the Espionage Act.

5. That said report shows on its face that it is but the conclusion and opinion of the reporting officer relative to the acts and conduct of a certain individual or individuals and the transmission of said reporting officer to another officer of such conclusions and opinion, and that it is not anything connected with the national defense or relating to the national defense as that term is used in the Espionage Act under which this prosecution is being had.

6. That the introduction of said report in evidence would have the effect of making the judgment, opinion and conclusion of an officer of the United States Navy a standard whereby to determine the conduct of the defendants and other persons dealing with the United States Navy and permitting said officer to in effect legislate and create criminal statute.

7. That the introduction in evidence of said report would be to give to a regulation of the United States Navy relative to information acquired by its officers and employees the effect of a criminal

(Testimony of Elias M. Zacharias)
statute, all in violation of the Fifth and Sixth Amendments of the Constitution of the United States.

8. That no proper foundation has been laid for the introduction of said writing for the reason that it has not been shown, [336] and there is no evidence to prove, that a conspiracy was entered into to which the defendant Gorin was a party, and for the further reason that the corpus delicti has not been established.

10. That the said document constitutes hearsay testimony as to the defendant Gorin and is not binding on him.

Mr. Stone: May I join in that objection, your Honor, as to all the grounds stated by Judge Pacht, save grounds 8, 9 and 10?

The Court: As to grounds 1 to 7, the objection is overruled and exception allowed.

As to objections 8, 9, and 10—was 10 the last one?

Mr. Pacht: Yes, your Honor.

The Court: As to objections 8, 9 and 10, the objection will likewise be overruled, subject to a motion to strike at some later time in the event that the proper connection is not made, the order of proof being largely within the discretion of the Court. An exception is allowed as to those also.

The Clerk. That will be Government's Exhibit 5 (a).

(Testimony of Elias M. Zacharias)

Mr. Pacht: Contained in Exhibit 5?

Mr. Harrison: This number will be 5 (a), indicating that it is folder marked No. 5 for identification, and the specific exhibit is marked "(a)".

Whereupon the document referred to was received in evidence and marked "Government's Exhibit No. 5(a)."

The Court: Now, I presume you propose to make the same formal objection to each one of these proffers of exhibits, is that correct?

Mr. Pacht: That is correct.

The Court: Then, in order to save counsel the burden of repeating his objection, may we not have a stipulation on that subject, and a stipulated ruling?

Mr. Harrison: As far as the Government is concerned, we are perfectly willing that the objection heretofore made shall be [337] deemed as applying to the offering of each and every one of these documents.

The Court: And that the objection is overruled and an exception allowed as to each one?

Mr. Harrison: Yes.

The Court: Then, if there is any special objection to one particular document, that may be reserved and made at the time and ruled upon separately.

Mr. Pacht: Yes, but it is not necessary for me to urge objections to each separate report which

(Testimony of Elias M. Zacharias)

Mr. Harrison intends to introduce from this volume?

The Court: You will not be so required, provided your objection is on the ground already stated.

Mr. Pacht: Yes.

The Court: If you have a distinct and separate objection to one of these, you must make it specifically.

Mr. Pacht: Yes.

Mr. Stone: And that applies, of course, to the defendant Salich as well, your Honor?

The Court: The same ruling and the same stipulation will be accepted as to the defendant Salich.

Mr. Stone: That is satisfactory.

The Court: Is it so stipulated?

Mr. Stone: Yes.

Mr. Pacht: Yes.

Mr. Harrison: So stipulated, if the Court please.

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(Exhibits set forth hereinafter: Government's Exhibit No. 5(a), also referred to as report No. 833 together with other exhibits of a like nature, consisting of reports selected from those in Government's Exhibit No. 5 and 6 for identification, all of which were read to the jury are set forth verbatim hereinafter, where all of such reports are listed and quoted together.)

Whereupon there was offered and received in evidence, subject to the objection and exception

heretofore noted, report No. 841, which was marked "Government's Exhibit No. 5(b)".

The witness Zacharias was temporarily excused from the stand and

G. V. DIERST

a witness on behalf of the Government was recalled and testified:

Direct Examination

By Mr. Harrison:

Q. Mr. Dierst, I desire to call your attention to Report No. 889 set forth in Government's Exhibit No. 5 for identification, and I will ask you what Mr. Salich said to you relative to that report. This statement, or conversation, as I recall, occurred on December 10, 1938, at the office of the Federal Bureau of Investigation.

Mr. Pacht: Before Mr. Dierst answers that question, this is going back again into conversations had with Salich, and therefore, I am obliged to make an objection upon the ground that the conversation was had out of the presence of Mr. Gorin, and is not binding upon him, and is not binding upon Mrs. Gorin.

The Court: May it be stipulated, counsel for the Government, that the same objections and the same rulings may be considered as made to this portion of this witness' testimony as the objections and rulings on the previous portion?

Mr. Pacht: And an exception.

(Testimony of G. V. Dierst)

The Court: And an exception allowed? [339]

Mr. Harrison: So stipulated, if the Court please.

The Court: Very well.

The Witness: In connection with this report, No. 889, Mr. Salich advised me that he had given the contents and substance of that report to Mr. Gorin, but that he had not furnished the name of Mr. Shively to Mr. Gorin, which was mentioned in the report.

Cross Examination

By Mr. Pacht:

I think, in connection with another report, he mentioned that he did not give the address of a party. That is in connection with report No. 859, where he stated that he did not furnish Gorin with the address of Simons. At first Mr. Salich gave me the general conversation that he had had with Gorin, contenting himself with saying, "I only gave him information with respect to Japanese activities." I demurred to that and said "Well, I would like to have you look over each one of these reports and show me specifically as to what you told Gorin regarding each one of these reports." We sat down and made a memorandum opposite each numbered report as to what Salich said about it, as to the first reports which were reviewed. Subsequently, Mr. Salich was asked about the specific reports in the files. The specific reports are designated and referred to on this memorandum which is Government's Exhibit No. 4. I would take Government's

(Testimony of G. V. Dierst)

Exhibit No. 5, for identification, which is the onion-skin copy of the Naval Intelligence reports, and we looked for instance at report #889 and in substance I would say to Mr. Salich, "Well, what can you tell me about that?" Whereupon Mr. Salich told me what he had done with reference to that report, and I wrote sufficient information on there so that at a subsequent time I would have a clear understanding of what was said in connection with the particular report which I asked him about. I made a mention there of it, if he told me that he turned the information over, or any of the information. With reference to report No. 889, I wrote in there "Salich [340] states he did not furnish Shively's name to Gorin". Mr. Salich subsequently inserted in there that he did not remember—inserted the word "remember," and also changed it to "furnishing," that is, he changed the word "furnish" to "Furnishing". After this memorandum of mine, Government's Exhibit No. 4 was written, we went over it paragraph by paragraph, and wherever he thought a correction should be made or a word written in, I gave him the liberty to do it and he did it.

Redirect Examination

By Mr. Harrison:

My memorandum does not contain everything. My memorandum contains only such information or what I thought was sufficient information to refresh my memory at a future time in connection with the report, and in making that memorandum the report

(Testimony of G. V. Dierst)

was furnished to Mr. Salich who read it over and he was asked as to whether he gave the information in that report to Mr. Gorin, and he replied that he had given the information to Mr. Gorin, but that he had not given the information of Mr. Shively's name to Mr. Gorin. He excepted that from his statement.

Recross Examination

By Mr. Pacht:

Q. Well, Mr. Dierst, I want to invite your attention to the fact that in other parts of this statement wherein Salich stated that he gave the report, or the information about the report, you wrote that fact down. For instance, opposite No. 854, you made this notation: "No specific recollection about this, but that he might have mentioned it to Gorin."

Or, opposite report No. 973: "Salich gave Gorin information about Louis Ritchie as a possible Japanese spy—" et cetera.

Now, I ask you if after Salich told you that he gave the information about this report No. 889 you had him go back to your statement and correct what was stated opposite that number? [341]

A. At the time he was going over these statements he had the report there, referred to it, and made the corrections in light of the report.

Q. But of course he made no correction about this particular report 889 in writing there, except as indicated on the report?

A. Except as indicated by me.

(Testimony of G. V. Dierst)

Mr. Pacht: Except as indicated on your statement, Government's Exhibit No. 4, instead of the report.

The Witness: That is correct.

Mr. Pacht: I take it the answer is to the question as amended.

The Court: Let us straighten that out so that there may be no misunderstanding in the minds of the jury.

You meant that by your statement, did you, Mr. Salich made no correction other than the changes indicated by you in connection with the word "remember" and the word "furnishing", which changes were not made upon the face of the report itself or a copy thereof, but were made on the face of your memorandum? Is that correct?

The Witness: That is correct.

The Court: Now, before you leave the stand, Mr. Dierst, as we have a lot of reports here, and the Court and jury want to know the facts, as I understand it, you only attempted to put down on your written memorandum, which is Government's No. 4, what we might describe as the highlights of your conversation with Mr. Salich?

The Witness: That is correct.

The Court: One more question.

Did Mr. Salich during that conversation at any time tell you that he gave you in the conversation statements of everything that he in turn told Mr. Gorin, or did he say that he was giving you what

(Testimony of G. V. Dierst)

he then remembered, or was the subject matter not discussed?

The Witness: Mr. Salich had advised me that he had given the information contained in those reports to Mr. Gorin. He did not [342] make any mention about relying upon his memory.

Recross Examination

By Mr. Stone:

Throughout the interview with Mr. Salich at our office at 810 South Spring Street, on December 10th, I kept repeating to him when he would make his replies, asking him as to whether he had given the information and the contents of that particular report, tying him down to a specific admission as to whether he did or whether he did not give the information in these reports. I did that with each of the reports mentioned in my notes, Government's Exhibit No. 4. In connection with Report No. 889, I cannot give verbatim the question which I asked Mr. Salich, nor can I give verbatim the question which I asked in connection with any of these other reports, but I can state that the substance of the question, throughout the interview, was as to whether he had turned over the information and the contents of that particular report to Mr. Gorin. In connection with report 889, Mr. Salich read the report over and advised, or told me, that he had given the contents of that report to Mr. Gorin, but that he had not mentioned the name of Mr. Shively to Mr.

(Testimony of G. V. Dierst)

Gorin. I did not put down in my notes the fact that he told me he had given the remainder of that record to Mr. Gorin. The fact that I put down in my notes that he specifically excepted Mr. Shively's name was sufficient to refresh my recollection in connection with that particular case, and also having in mind the specific reason of why I asked him about that report.

Recross Examination

By Mr. Pacht:

Mr. Salich told me that he had given information concerning each of these reports to Mr. Gorin, unless I otherwise qualified it. There were reports which Mr. Salich definitely denied that he had turned over or had given the substance of, or any information about, to Mr. Gorin. I have qualified that throughout my testimony [343] in connection with the specific reports that have been mentioned. When I interrogated Mr. Salich with respect to report No. 518, he told me that was information which he received from Mr. Gorin. There were two instances which Mr. Salich selected and said that the information in the file came from Mr. Gorin. He leafed through the reports and selected out those two reports, to show me that he had received information from Mr. Gorin, which information he stated that he had turned over to the Navy Intelligence. He did not tell me that in his contacts with Mr. Gorin he was seeking information from him which

(Testimony of G. V. Dierst)

would be useful in his work in the Naval Intelligence; he stated nothing to that effect, other than has been stated in these reports, which were dated early in June and May of 1938.

Recross Examination

By Mr. Stone:

Mr. Salich did not tell me that Commander Roachefort had authorized him to trade information with Mr. Gorin. He mentioned the fact that he had discussed his contact with Mr. Roachefort and that the matter was more or less dropped. He did not say that Mr. Roachefort had authorized him to give information to Mr. Gorin. I did not telephone Commander Roachefort at any time during my conversations with Mr. Salich. I do not recall telling Mr. Salich that I had telephoned Commander Roachefort at any time during my conversation with him. Mr. Roachefort's name was mentioned several times during the conversation, more or less in the preliminary examination of Mr. Salich in which we were leading up to the specific reports, going over the specific reports. His name was not mentioned in connection with any other reports other than—about the only place that his name was mentioned was when Mr. Salich advised that he had taken this matter up with Mr. Roachefort when the matter first—when he first contacted Gorin or Gorin had first contacted him. The substance of the conversation was that when Mr. Gorin had first contacted

(Testimony of G. V. Dierst)

him, Mr. Salich had advised Mr. Roachefort of what had transpired, and Mr. [344] Salich said that Mr. Roachefort more or less let the matter die out. Mr. Salich told me that he told Mr. Roachefort that Gorin had contacted him and made a proposition to him about turning over information and had received an offer from Mr. Gorin of \$30 or \$40 a month for this information, and that he had advised Mr. Roachefort of this fact. He never specifically said what Mr. Roachefort's reply was other than that the matter just more or less died out. Mr. Salich did not tell me that Mr. Roachefort had authorized him to give to Mr. Gorin information of the type found in newspapers, but that the next time he went to see Mr. Gorin he should take Mr. Stanley with him. I don't know whether anybody else was in the room during the time Mr. Salich was telling of his advice to Commander Roachefort of the contact he had made and of the proposition.

ELIAS M. ZACHARIAS,

witness for the Government, resumed the stand.

There was then offered and received in evidence, subject to the objections and exceptions above noted, documents marked "Government's Exhibit No. 5 (c)".

Objection overruled. Exception allowed.

There was then offered in evidence Government's Exhibit No. 3 for identification, to which offer de-

(Testimony of Elias M. Zacharias.)

Defendants objected upon the ten separate grounds of objection heretofore urged to the introduction of Government's Exhibit No. 5 (a).

Objection overruled. Exception allowed.

Whereupon there was offered and received in evidence, subject to the objection of the defendants heretofore noted, report No. 889, said report being marked Government's Exhibit No. 5 (c).

Mr. Harrison, the United States Attorney, then proceeded to read to the jury Government's Exhibits 5(a), 5(b), 5(c), and No. 3.

(Witness Zacharias continues) [345]

The words "Memo for DIO", appearing at the top of Government's Exhibit No. 5(a) Report 833, mean, as to the initials, District Intelligence Officer. The initials "J.A.C.L." appearing on the same exhibit is an abbreviation used by my office to designate "Japanese-American Citizens League". The word "Nisei" appearing on the report in my office is a Japanese word meaning second generation and to designate American citizens of Japanese parentage.

Whereupon there were offered and received in evidence, all subject to the objection and exception allowed as heretofore noted of the defendants, certain reports, all of which are physically identified, listed and described on the appropriate exhibit numbers given as follows:

Report No. 570 received as Government's Exhibit 6(a);

(Testimony of Elias M. Zacharias.)

Report No. 560 received as Government's Exhibit 6(b);

Report No. 548, received as Government's Exhibit 6(c);

Report No. 546 received as Government's Exhibit 6(d);

Report No. 536 received as Government's Exhibit 6(e);

Report No. 535 received as Government's Exhibit 6(f);

Report No. 534 received as Government's Exhibit 6(g);

Report No. 532 received as Government's Exhibit 6(h);

Report No. 530 received as Government's Exhibit 6(i);

Report No. 529 received as Government's Exhibit 6(j), as to the first paragraph only;

Report No. 528 received as Government's Exhibit 6(k);

Report No. 525 received as Government's Exhibit 6(l);

Report No. 519 received as Government's Exhibit 6(m);

Report No. 514 received as Government's Exhibit 6(n);

Report No. 507 received as Government's Exhibit 6(o);

Report No. 505 received as Government's Exhibit 6(p);

(Testimony of Elias M. Zacharias.)

Report No. 504 received as Government's Exhibit 6(q);

Report No. 503 received as Government's Exhibit 6(r);

Whereupon there were read to the jury Government's Exhibits [346] 6(a) to 6(r), inclusive (the text of which is hereinafter set forth as noted in prior parenthetical notes in this Bill of Exceptions).

(Witness Zacharias continues)

The reference in Government's Exhibit 6(h) to Rafu Shimpo is a reference to a newspaper published in Los Angeles; and the word itself means "Los Angeles Newspaper." I understand the Japanese language. The newspaper is published in both the Japanese language and the English language. It is a daily. The initials "IJA" appearing in the reports mean "Imperial Japanese Army". The symbol "Col." is an abbreviation for the title Colonel. The initials "O. S. K." refer to a steamship company by the name of Osaka Shosen Kaisha. Little Tokyo is an area in which a great many Japanese reside in Los Angeles. "Abacus" means a small board with a number of beads on it used in computations in Japan and China. The word "issei" means the first generation and refers to those people born in Japan. The word "nisei" is a Japanese word meaning the second generation and refers to those American citizens of Japanese parentage.

(Testimony of Elias M. Zacharias.)

Whereupon there was offered and received in evidence and read to the jury, subject to the objection and exception of the defendants heretofore noted, Report No. 495, received and marked in evidence as Government's Exhibit No. 6(s).

Whereupon there was offered and received in evidence, subject to the objection and exception of the defendants heretofore noted, certain other reports from the files of the Naval Intelligence, and all being a part of Government's Exhibits 5 and 6 for identification, and which were marked as exhibits, the report numbers and exhibit numbers being as listed below, and each of which was read to the jury as it was introduced in evidence, said report numbers and exhibit numbers being as follows:

Report No. 495 received as Government's Exhibit 6(s); [347]

Report No. 489 received as Government's Exhibit 6(t);

Report No. 482 received as Government's Exhibit 6(u);

Report No. 480 received as Government's Exhibit 6(v);

Report No. 479 received as Government's Exhibit 6(w);

Report No. 477 received as Government's Exhibit 6(x);

Report No. 472 received as Government's Exhibit 6(y);

(Testimony of Elias M. Zacharias.)

Report No. 469 received as Government's Exhibit 6(z);

Report No. 466 received as Government's Exhibit 6(aa);

Report No. 465, received as Government's Exhibit 6(bb);

Report No. 439, received as Government's Exhibit 6(cc);

Report No. 435, received as Government's Exhibit 6(dd);

Mr. Harrison: Now, if the Court please, the balance of the documents that we desire to offer in evidence, if I remember the record correctly, should only be offered as to the defendant Salich. They are brought in under a written statement, or a writing, that was introduced in evidence—it was introduced under conditions that it was only to apply to the defendant Salich—so I assume that the documents referred to would also have the same effect.

The Court: Very well. If you will notify us when you discontinue with that particular series.

Mr. Harrison: The balance that I shall offer will be of that series.

The Court: Gentlemen of the jury, so far as concerns the balance of these reports, which the Government is about to introduce, you are not to take them into consideration, so far as concerns the defendants Gorin, either or both. They are introduced merely as binding upon the defendant Salich.

(Testimony of Elias M. Zacharias.)

Mr. Harrison: If the Court please, I now offer in evidence under that ruling No. 1145, bearing date 25 November, 1938.

The Court: It may be received, subject to the objection on the part of the defendant Salich, and the same ruling. [348]

Whereupon there was received in evidence and read to the jury, all subject to the objection and exception of the defendant Salich, the following identified reports with the exhibit numbers as listed (the text of said exhibits appearing hereinafter), all as follows:

Report No. 1145, received as Government's Exhibit 5(d);

Report No. 1139, received as Government's Exhibit 5(e);

Report No. 1133, received as Government's Exhibit 5(f);

Report No. 1132, received as Government's Exhibit 5(g);

Report No. 1130, received as Government's Exhibit 5(h);

Report No. 1129, received as Government's Exhibit 5(i);

Report No. 897, received as Government's Exhibit 5(j);

Report No. 1110, received as Government's Exhibit 5(k);

Report No. 1104, received as Government's Exhibit 5(l);

(Testimony of Elias M. Zacharias.)

Report No. 1081, received as Government's Exhibit 5(m);

(Witness Zacharias continues): With reference to report #480, Government's Exhibit No. 6(v), where it reads "References: (a) Our (Adio) Serial No. 215 of 11 Meh. 1938", the "Adio" represents the Assistant District Intelligence Officer, and refers to a memorandum from my branch office at San Pedro. The portion of it which reads "(b) Com9 card 156, 25 May 1938," refers to a memorandum received from the Commander of the Ninth Naval District. The number under "A" number "215" refers to another report of the Assistant District Intelligence Officer at San Pedro. This report is one of a series of reports.

Mr. Pacht: If the Court please, so that we may not have any misunderstanding, I take it Mr. Harrison will stipulate with us that this serial report No. 215, and this report No. 156 referred to in this report No. 480, which Commander Zacharias has just read, are neither of them any report mentioned in the indictment nor is it charged that either of those two numbered reports were in any way [349] communicated to us?

Mr. Harrison: They are not mentioned in either one of the substantive counts of the indictment and we have made no charge that they have been communicated.

Mr. Pacht: All right.

(Testimony of Elias M. Zacharias.)

The Court: The stipulation will be received.

It was further stipulated that the pencil figures appearing on the bottom of Exhibit No. 6 (aa) were filing symbols in the office of the Naval Intelligence and that where such symbols occur on any of the other reports in evidence, the same stipulation is in effect.

(Witness continues) The words "Personal File" appearing on Report No. 469, Government's Exhibit No. 6(z) refers to the personal file of the subject mentioned in the report. One copy of the report which I have read and which were read in my presence yesterday was filed in my office at San Diego. Those reports which come in from the Assistant District Intelligence Officer, as all of that kind do, those which come in unsigned are forwarded to Washington to the Office of the Naval Intelligence. Those which are signed are in some instances forwarded to Washington, as the others are. In all cases, one copy is kept in the files at San Diego.

Cross Examination

By Mr. Pacht:

The first meeting at the office of the Naval Intelligence to which I refer, took place shortly after I took charge of the office, which was May 13, 1938. I named those who were employed in the Naval Intelligence Office and who were present. The others present were Intelligence Reserve Officers who are

(Testimony of Elias M. Zacharias.)

connected with the office but not employed or paid by the office. Exclusive of those employed in the office, I would say there were between ten and fifteen others present. Reserve officers are people who are in civil life and subject to be called back for Naval duty in the event [350] of hostilities. At the first meeting that I spoke of, I made an address to the group. It was at the Naval Intelligence Office at San Pedro. The other meeting to which I referred previously was not a second such meeting. It was not the second meeting that I had with the group but was the second meeting with which I have a direct recollection. A group of the same type of persons previously described were present, and approximately the same number.

The regulations under which the office of Naval Intelligence operates are in writing, and are promulgated by the Chief of Naval Operations. Whatever is done by me or by my Lt. Commander or by any investigator employed by the office of Naval Intelligence is done pursuant to some written regulation of the Navy Department. During the years 1937 and 1938 there were such written regulations.

Referring to Report No. 536, which is Government's Exhibit No. 6(e), which reads:

"Ohtani, Yoshachi. He will be under Minister S. Koshida, stationed at Mexico City, and who is Minister to six countries from Mexico southward. Ohtani succeeds T. Ummoto, called back to the for-

(Testimony of Elias M. Zacharias.)
eign office; reference 'Ken', article on Japanese
spies in the first issue."

The reference there is to an article in the magazine named "Ken", the issue of April, 1938. The article in "Ken" magazine entitled "Exposing the Peril of Panama" which you are showing me, is the article that I had reference to.

Whereupon the article referred to was marked Defendants Gorin and Salich Exhibit A for identification.

Whereupon defendants Gorin and Salich moved to strike the testimony of Commander Zacharias concerning the address made at the office of the Naval Intelligence, and all his testimony relating to each of the addresses upon the ground that the duties, the powers and the matter of functioning of the office of Naval Intelligence is a matter which is subject to and governed by written regulations of the Navy Department. [351]

Motion denied. Exceptions allowed.

Redirect Examination

By Mr. Harrison:

The meeting where the various Naval Reserve Officers were present was not an open public meeting. It was restricted. In addition to Lt. Clayborne, Mr. Stanley and Mr. Salich, all of whom were at that time regularly attached and employed in the office of the Assistant District Intelligence Office at San Pedro, there were present a group of Intelli-

(Testimony of Elias M. Zacharias.)
gence Reserve Officers of the United States Navy.
I would prefer not to give their names as it would
be prejudicial to the national interests.

Recross Examination

By Mr. Pacht:

It was in my own control and discretion as to who
was to be present at this meeting and who was to
be excluded.

Redirect Examination

By Mr. Harrison:

When I mentioned that we operate under written
regulations, that also includes written orders given
to us by our superior officer. There is only one set
of regulations, I am referring to the United States
Navy Regulations. There are certain regulations
concerning the Navy Intelligence that are not open
to the eyes of the public and which under our in-
structions we are not permitted to communicate to
anyone outside of the Naval Service.

The several reports from the files from the office
of the Naval Intelligence offered and received in
evidence over the objection of the defendants here-
inbefore noted and which were read to the jury and
referred to in the testimony of Commander Zach-
arias, are in words and figures as follows: [352]

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 5 (a)

833

7 September 1938

Memo for Dio

Subject: Activities of Japanese.

Enclosure: (A) Memo of Dio dated 31 August 1938.

1. Very little information could be obtained by this office on the subject mentioned in Enclosure (A). Three American-born Japanese, George Ohaski, Paul Nakadate and George Suzuki, all resigned very recently from the J. A. C. L., because they were accused of indulging in communist activities. Dr. Miki Nakadate, elder brother of Paul Nakadate, is still in Los Angeles and is very strong in the Los Angeles branch of the J. A. C. L. According to the informant there is news in Los Angeles relative to any trouble in San Diego, and the Rafu Shimpo stated, the only information they had was of the resignation of the three above mentioned people from the J. A. C. L., due to communist activities.

2. This office is of the belief that the informant could discover more concerning this matter but he lacks the energy and the ingenuity to get it.

H. deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 5 (b)

841

9 September 1938

Memo for Dio

Subject: Japanese activities.

Reference: (a) Adio Memo No. 833 of 7 Sept 1938, Activities of Japanese.

1. Further information concerning the inter-Japanese strife reveals the following:
2. George Ohaski is reported to have made the state- [353] ment that he belonged to a group which was neither Fascist nor Nazi. Several Japanese took this to mean that he was a Communist. Paul Nakadate and his friends thereupon beat up Ohaski and forced him to sign papers stating that he was a Communist. Ohaski then went to Mr. Chino, who is reported to be a sort of 'welfare officer' for the Japanese of the San Diego area, and asked him to help him, Ohaski, clear up the mess. The subsequent troubles all came about due to the above facts. The report in the newspapers concerning all these people was reported to have been made by Paul Nakadate's father in an effort to whitewash his son. It is further reported that the entire Nakadate family have peculiar ideas and some of the Nisei in this vicinity are suspicious of them. Mrs. Nakadate, the mother, is reported to be the niece of an influential Japanese Admiral.

H. deB. CLAIBORNE,

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 5 (e)

889

23 September 1938

Memo for DIO

Subject: Suspected Communists at North Island.

Reference: (a) Adio Memo No. 849 of 13 Sept 1938 to Dio.

Enclosure: (A) Dio Memo of 20 Sept 1938, ND11/P9-2 to Adio.

1. The information contained in reference letter was phoned in by Harry Shively, 404 South Mariposa, Los Angeles.

2. Shively was contacted and states that he was formerly in the Navy, receiving a Bad Conduct Discharge October, 1930. Since this time he has been employed in various cities all over the United States, most recently in Phoenix, Arizona, as a special deputy sheriff. He is now employed as a special night watchman by [354] the Nick Harris Patrol.

3. A short time ago he dug up an old shipmate named Johnnie Means, 1528 West 145th Street. Means told him he was working for the WPA and when Shively told Means he had been working as a special deputy and special policeman, Means accused him of being a strike buster and told him that he, Means, wanted nothing to do with Shively, as he, Means, was a member of the Communists Party. Shively

(Testimony of Elias M. Zacharias.)

asked Means where he could get in touch with Bert Simmons and Rayburn, first name unknown. Means told him they wanted nothing to do with him and would not tell him where they were. Shively says he located Simmons and Rayburn in San Diego but he has not seen them. Simmons works on North Island and is a civil service employee in the aircraft division; he is a Communist and belongs to the I-V(S), USNR, San Diego and operates on Eagle Boat #34. Rayburn is also reported to belong to the Communists in San Diego and is an officer in the Party.

4. Shively is very anxious to have his Bad Conduct Discharge fixed up and it is my opinion he is using this means to assist him in the matter. He requests that this investigation be carried on in San Diego as he claims that if Johnnie Means is approached he will know that Shively is the one who reported him.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 5 (d)

1145

25 November 1938

Subject: Count Kiyoski Kuroda and Shinzo (?) Goto; information on.

1. Subject individuals are now at the Ambassador Hotel, [355] having registered there on Tuesday, 22 November, 1938. They are regis-

(Testimony of Elias M. Zacharias.)

tered from Tokyo, Japan. Count Kuroda is in Room 506 and Goto is in Room 406. Goto has done all the telephoning and all the talking. He has called the N.Y.K. Line, Yoshitsugi Fujino, the Japanese Consulate, and George Nakamoto of the Rafu Shimpo.

GOVERNMENT'S EXHIBIT No. 5 (e)

1139

23 November 1938

Subject: Lieutenant Commander Ko Nagasawa, IJN and Lieutenant Commander Shigeshi Uchida, IJN.

1. This office has heard a rumor that Lieutenant Commander Nagasawa, stationed at present in Los Angeles, will, upon the completion of his tour of duty, be relieved by Lieutenant Commander Uchida, who is now stationed in Washington.
-

GOVERNMENT'S EXHIBIT No. 5. (f)

1133

22 November 1938

Subject: Japanese War Saving Fund—Amount contributed to, in Los Angeles area.

1. It is reported that the Japanese Association has collected \$4,057 this month for the Japanese War Saving Fund. This is supposed to

(Testimony of Elias M. Zacharias.) -

be the third month of their saving collection campaign, [356]

GOVERNMENT'S EXHIBIT NO. 5 (g)

1132

22 November 1938

Subject: Kato, Futashi—Reported inventions of.

1. Subject individual, a chemical professor in a girls' college in Tokyo, has recently perfected a fiber helmet. This fiber is reported to weigh only about one-fifth of the steel helmet. It is further intended to use this material for gloves, etc., particularly for men going through barb wire entanglements.

2. It is reported that the manufacture of these fiber helmets and gloves has already started.

GOVERNMENT'S EXHIBIT No. 5 (h)

1130

22 November 1938

Subject: Oka, Shigeki—Reported activities of as a "Red."

1. Subject individual, owner of the Golden Gate Printing Shop in San Francisco, has a reputation amongst Japanese of being an active "Red." Two years ago he was reported as having a very hard time in getting into Japan for

(Testimony of Elias M. Zacharias.)

a visit. However, at the present time Takemitsu Masuno frequently refers to him as a close friend.

2. His daughter is now in Japan and is reported to have recently married a Japanese naval officer.

GOVERNMENT'S EXHIBIT No. 5 (i)

1129

22 November 1938 [357]

Subject: Kawamura and Kawaguchi—Contacts of in Los Angeles.

1. It is reported that two Japanese named Kawamura and Kawaguchi, who work on the Asama Maru, contact Takemitsu Masuno and Lieutenant Commander Ko Nagasawa, IJN, every time this vessel is in San Pedro. They also have been known to contact Dr. Ajijū Amano and Wataru Kitagawa occasionally.

GOVERNMENT'S EXHIBIT No. 5 (j)

897

23 September 1938

Memo for DIO

Subject: Activities of Japanese.

1. Mrs. Furusawa is now on a talking tour of Southern California, the object of which is to get donations for the Japanese.

(Testimony of Elias M. Zacharias.)

2. Iseda, Gyosuke is now on a talking tour of Central California for donations for the Japanese.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 5 (k)

1110

16 November 1938

Memo for DIO

Subject: Suspicious activities of a United States Navy sailor and Japanese girl. [358]

Reference: (A) Adio Memo 1083 of 10 November; and Adio Memo 1093 of 14 November.

1. In addition to the reports submitted in reference (a), final investigation of this case revealed the following:

"The car involved was registered to Mrs. Sakae Yamamoto who lives and works at the Golden Nursery, 1908 Redondo Blvd., Gardena, California. Further investigation revealed that on the day in question, the car was used by Mrs. Yamamoto's sister-in-law, Rose Asahira. The latter girl had been married once, is about 20, rather attractive, came down from Seattle about a week ago, now lives with Mrs. Yamamoto, and since 14 November has been employed as vegetable salesgirl at 54th Street Market, Vermont and 54th. This girl readily admitted the events of the day, explaining that the sailor involved was Donald Tucker, attached to the U. S. S.

(Testimony of Elias M. Zacharias.)

Henderson: She met him in Eugene, Oregon, somewhat recently and fell madly in love with him.

Knowing that the ship was about to be gone for two years she wanted to spend as much time as possible with Tucker. Not knowing if she would be able to catch Tucker at San Pedro Navy Landing, she wrote a long letter to him intending to leave the letter for him. She inquired for him at the landing and soon afterwards Tucker came ashore. They sat in her car for a while and she handed her letter to him personally which he read sitting in the car. She is emphatic in her statement that she did not see anyone approaching her car before she drove off. After leaving the landing the two registered at the California Hotel and spent the night together.

2. The girl was unquestionably in love with Tucker and begged that, if it was against the regulations for him to go with girls other than his own race, not to do anything to him, but punish her. Stated pleadingly that she couldn't help falling in love and that she would do anything if only Tucker goes unpunished [359] for whatever he is accused of.

3. A copy of this memorandum has been forwarded to the Commanding Officer of the U. S. S. Henderson.

H. deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 5 (1)

1104

15 November 1938

Memo for DIO

Subject: Secret dinner at Shogatsu Tei restaurant in L. A.

1. On Sunday, 13 November, a dinner was given at the Shogatsu Tei restaurant in Los Angeles. The following people attended: Lieutenant Commander Ko Nagasawa, IJN, Takemitsu Masuno, T. Matsuzaki and Kychei Watanabe and also several officials of the Sumitomo Bank. At this dinner, all doors were closed and the waitresses were told not to come into the room.

2. T. Matsuzaki is the son of the owner of the Morinaga Candy Co. and is now agent in Los Angeles for Aja-no-moto. He claims that he is a reserve lieutenant of the Japanese Army, that his father is a colonel on active duty, that his mother is head of the Aikoku Fujinkai in Tokyo. He is about 5'5", 120 pounds, very high cheek bones, slender face and approximately 28 years old, has been in the United States approximately eighteen months, speaks mediocre English, travels extensively, particularly on the West Coast from Seattle to Mexico City. His card shows that he has been in mail communication with Sataro Minami of the Holland Hotel in Seattle. [360]

(Testimony of Elias M. Zacharias.)

3. It is noted that Masuno attended both dinners (see Memo No. 1103, this date).

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 5 (m)

1081

10 November 1938

Subject: Japanese activities.

1. All vessels of the Yamashita Line usually anchor as close as possible to the boundary between the general and naval anchorages in San Pedro Harbor. They are frequently seen photographing the fleet from these ships.

2. The Nippon Maru, on or about 1 August 1938, was anchored along the boundary mentioned above and a Japanese on board was taking pictures of the United States Fleet with telescopic lens.

3. On or about Tuesday, 1 November, the U. S. S. Wright with a squadron of PBY flying boards was conducting maneuvers, based at Reeves Field, Terminal Island. On that day there was a large crowd of young Japanese gathered along the fence at the West end of the field very interested in all activities.

4. On October 26, 1938, at about 0715, a number of Japanese were noticed taking various pictures of the Wilmington refinery of the Texas Oil Company.

(Testimony of Elias M. Zacharias.)

This office is constantly receiving such reports, as the above, particularly mentioning the photographing of military planes at Mines Field and the Reeves Field. Further, the purchase by the Japanese of air views of the San Pedro area of oil [361] fields and refineries, in California, unquestionably shows their interest in obtaining every bit of possible information concerning our defenses and vulnerable spots. In view of the fact that there is no law against such indiscriminate photographing of everything, government agencies are handicapped in their efforts to assure national security and it is recommended that the prohibited zones bill be placed in effect as soon as possible.

GOVERNMENT'S EXHIBIT No. 6 (a)

570

28 June 1938

Memo for DIO

Subject: Activities of German-Japanese-Mexican people.

1. From data deduced from reliable informants and also from definite indications, it is becoming more and more apparent that Germany, Japan and Mexico are tied up together in espionage activities in this country. It is believed that the various German-American and

(Testimony of Elias M. Zacharias.)

Japanese-American Chambers of Commerce
are serving as centers of this work.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (b)

560

27 June 1938

Memo for DIO [362]

Subject: Japanese fishing boats.

1. The following information has come from a fairly reliable informant:

In June 1937 the Japanese fishing boat 'Flying Cloud,' which was registered to owner Matosuke Tsuida, San Diego, purchased from Van Camp Sea Food Company, came into Ensenada from the South with a very heavy load of large gasoline drums. These drums were procured from the German freighter Edna, were landed in Ensenada and stored in a flour mill nearby.

In September, 1937, the same procedure took place. The keeper of this mill was an Italian who kept it under a guard of two men day and night. These drums were about twice the size of our own gasoline drums. The drums ends were painted yellow, and the only lettering was the stenciled initials A.H. In October, 1937, the contents of one of these drums was secured and the substance tested. It was found to be not gasoline but an acid substance which when

(Testimony of Elias M. Zacharias.)

mixed with salt water turned into minute bubbles, just under the surface of the water and attacked violently any metals placed in this solution. The flour mill in which these drums were stored burned down the day before an Immigration officer was shot on the border while trying to stop two men from crossing into the United States. In the fall of 1937 a vessel in the molasses trade, between the Hawaiian Islands and the United States which bore an Indian name, was loading molasses at a sugar mill in Hawaii, when it was reported that some of this substance was dumped overboard on a rising tide by a Japanese fishing boat. The plates of this vessel were supposed to have been 25% eaten during the period of her loading. In February, 1938, two Japanese were arrested by Fish and Game Commission for using acid near the jetty of Terminal Island to catch fish. The informant, suspicious of this, investigated immediately and believed this to be the same substance, that was used to eat away a large cable, one end of which was imbedded in the jetty. All of these facts [363] have not been checked as yet and an investigation will be conducted. Efforts will be made to obtain samples of this alleged acid. It is noted that this acid is supposed to come on German boats through the Panama Canal. If such drums are seen by the inspectors at Panama, a sample of their con-

(Testimony of Elias M. Zacharias.)

tents should be taken. The drum should be examined with a possibility of an inner container. The fishing boat 'Flying Cloud' is reported to do little fishing and spends a great deal of its time in transporting the above-mentioned drums. She is reported to provision and fuel from the Sendai Maru. When approaching American ports she flies the American flag, but upon getting out to sea the ship always flies the Japanese flag. Her radio set is capable of reaching Japan and they have frequent communications with that country. It has been learned that all of these fishing boats are required to carry American licensed radio operators. It is believed that a few reliable radio operators could be found on these boats or that possibly several reliable operators could be placed on the larger tuna clippers. There is aboard the 'Flying Cloud' a Japanese who is an expert radio operator and does most of the communication work. The licensed American radio operators is not required to do anything. It is further reported that large Japanese clippers frequently exchange boat crews and particularly so when planning to come to the United States from Mexico.

2. Upon the occasion of the Astoria and Quincy joining the Fleet in Long Beach, a Japanese freighter left her berth from Wilmington and stood to sea in the direction of these vessels. She took no usual commercial course but

(Testimony of Elias M. Zacharias.)

stood in such a direction as to pass the cruisers close aboard. Two large cameras were used to photograph the cruisers. Three fishing boats left the Fish Harbor and stood out to meet the cruisers. These fishing boats distributed themselves in the following order: one stayed inside the breakwater, very near their expected anchorage, [364] and the other two outside the breakwater, a considerable distance apart and waited for the cruisers to pass.

3. Three weeks ago the second officer of a Japanese freighter joined some of his friends ashore, drove over to the edge of Reeves Field and took numerous pictures.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (c)

548

21 June 1938

Memo for DIO

Subject: Masuno, Takemitsu

1. Subject is positively identified as the agent for Nippon Suisan Kaisha, in Los Angeles, working for Fukuno. He keeps a permanent room at the Olympia Hotel which he rarely uses as he is always away on what he calls fishing trips. He apparently does no work, drives a nice car, is well dressed, and seems to always have money.

H. deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (d)

546

21 June 1938

Memo for DIO

Subject: Sonobe, Isukasa.

1. Sonobe left Los Angeles for San Francisco the morn- [365] ing of 21 June. San Francisco was informed immediately of his departure. He is scheduled to sail on the Chichibu Maru, on 22 June. San Francisco was also informed that Sonobe had written a large air mail letter to Tatsumi, the clerk at the Yamato Hotel, San Francisco.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (e)

536

20 June, 1938

Memo for DIO

Subject: Ohtani, Yoshachi.

Reference: (a) Adio memo 522, 15 June 1938.

1. Subject former consul at San Salvador, now promoted to Charge d'Affaires at Panama, the new setup created a month ago. He will be under Minister S. Koshida, stationed at Mexico City, and who is Minister to six countries from Mexico southward. Ohtani succeeds T. Uminoto, called back to the Foreign Office; reference 'Ken' article on Japanese spies in the first issue. Ohtani made the statement that the

(Testimony of Elias M. Zacharias.)

Amano Maru 'has finished its work off Panama and has shifted to Chili.' The owner of the boat has lumber interests down in Chile. Ohtani wears glasses. He was scheduled to leave June 18, by plane, for Mexico City then going to Manzanillo and catch the N.Y.K. liner Bokuyo Maru, scheduled to sail from here Sunday, at 3:00 p. m., for the South.

2. Mashiko, T., claims to be managing director of the Kimbetsu Kagyo, a mining outfit of Tokio. This man was very reticent to talk but admitted that he was interested in mining throughout California and Nevada and he might possibly buy copper, [366] zinc, and etc. He will be in this country for several weeks and plans to pass through Joplin, Missouri, look into the zinc question. It is suspected that he has financial interests in mines in this country.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (f)

535

20 June 1938

Memo for DIO

Subject: Nakata, Ben.

Reference: (a) Adio memo 507, 13 June 1938.

1. Further information relative to reference (a) is to the effect that subject is manager of the Branch Tokio Club in Vallejo.

H. deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (g)

534

17 June 1938

Memo for Dio

Subject: Notes on Japanese.

1. Sonobe, first name unknown, is expected in Los Angeles from the East on the 19th.
2. Fukuno, Hisamatsu, a representative of the NSK arrived by plane from Mexico City on the 16th of June. [367]
3. Saito, I., arrived by train from Mexico yesterday.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (h)

532

17 June 1938

Memo for DIO

Subject: Nakamoto, George H.—Column in Refu Shimpo by subject appearing on 15 June 1938.

1. Mr. Nakamoto, the writer of the 'Off the Record' column of the Rafu Shimpo, has been very pro-Japanese and anti-American of late.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (i)

530

17 June 1938

Memo for DIO

Subject: Hirata, Masachika—Col., IJA.

1. Subject individual left Los Angeles on the morning of 16 June on the Daylight Lim-

(Testimony of Elias M. Zacharias.)

ited for San Francisco. He will catch the Chichibu Maru there for Japan.

2. There is no further information available on Major Morita, mentioned in our Serial No. 519 of 15 June.

H. deB. CLAFBORNE. [368]

GOVERNMENT'S EXHIBIT No. 6 (j)

529

17 June 1938

Memo for DIO

Subject: Moriya, Sensuki and Ogura, Akira, Jr.—Activities of

Reference: (a) 11 ND #902 of 6-14-38.

1. Subject individuals represent the Ogura Oil Co. of Japan, the former being a chemical engineer and the latter a mechanical engineer and the owner's son. They arrived here on the Ogura Maru No. 1 on 10 March 1938.

GOVERNMENT'S EXHIBIT No. 6 (k)

528

17 June 1938

Memo for DIO

Subject: Okami, Dr. Shigaichi—Activities of.

1. Information has been obtained from an informant of this office that subject individual, while driving an eggshell blue Cadillac sedan with California License No. 3 Y 28 57, made a

(Testimony of Elias M. Zacharias.)

trip through Northern California the first part of June and took 300 feet of film of the Bay area and the Coast on the way up. His address on Terminal Island is 190-1/2 Terminal Way, and he is said to have an extensive practice among the Japanese there.

2. The above mentioned film has been pre-viewed by this office and contained nothing of military importance.

H. deB. CLAIBORNE. [369]

GOVERNMENT'S EXHIBIT No. 6 (1)

525

16 June 1938

Memo for DIO

Subject: Departure of Lieutenant Commander Ohtani and Lieutenant Commander Nagasawa, IJN.

1. Subjects left Los Angeles at 0830, 15 June, for an automobile trip through Yosemite, Yellowstone, Mount Ranier, and probably via San Francisco. They will be gone for two weeks and are driving a Chevrolet Coach, Washington, D. C. license No. DC 575-12.

H. deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (m)

519

15 June 1938

Memo for DIO

Subject: Arrival of Japanese officers.

1. Colonel Hirata, IJA, arrived Los Angeles 14 June on the 'Chief'. Major Morita did not arrive with him. Hirata is at the Olympic Hotel. However, he had made no reservations and is not registered.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (n)

514

14 June 1938

Memo for DIO [370]

Subject: Imamichi, Junzo.

Reference: (a) Adio memo of 13 June 1938,
Ser. No. 505.

1. Subject, who was reported to be staying at the Ambassador Hotel, stayed at the residence of the representative of the O. S. K. Line in Los Angeles, and is leaving this morning at 11:30 a. m., for New York on the 'Chief', where he plans to continue on to South America for business contacts down there.

HENRI deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (o)

507

13 June 1938

Memo for DIO

Subject: Information on Japanese, Li'l Tokio, Los Angeles, California

1. The below named Japanese are frequently seen in Li'l Tokio, Los Angeles, both together and separately, spending a great deal of money more than they apparently earn, and are suspected of being interested in intelligence work:

1. Ohara (female)—first name unknown: Lives at the Miyako Hotel and is studying beauty culture. She had a position on the Tatsuta Maru and was fired by that vessel in San Francisco supposedly for having a love affair on board ship.

2. A Japanese who owns the 'Montana Pig Ranch', near Long Beach, associates with all the included subjects and spends a great deal of money.

3. Fujikawa, Kozo, manager of the French Sardine Cannery, contacts all arriving Japanese ships and is frequently uptown in Li'l Tokio with the included subjects. [371]

4. Nakata, 'Ben,' Eurasian, married to a Eurasian from San Francisco, is active in Li'l Tokio with the included subjects.

5. Matsuyaka—(representative of Aji No Moto Company, lives at the Mayako Hotel. Is interested in photographic work and possibly

(Testimony of Elias M. Zacharias.)

might be Yamakaishi (Adio letter 508, 13 June 1938), or closely connected with this subject.

6. Yamakaishi—Recently a woman who is in the habit of frequenting Yamakaishi's room, Mayako Hotel, walked in unannounced one night and found him developing blueprints in pans of water using the before mentioned boxes of white powder (Odio 508). Yamakaishi was very furious in the intrusion and threw her out of the room. The paper being developed in the pans was not photographic work but definitely blueprints with a great many lines on them.

7. Takase, Masakazu, is living with Hazel Matsui in the Higoya Hotel, 210 North San Pedro Street, Los Angeles. Subject is in the dope business and sent Hazel, at his own expense to a hospital to cure her of the dope habit. She had acquired the dope habit while living with a Chinese dope peddler. They are both seen with the included subjects.

8. Jioshma—owns a chop suey restaurant in the basement of the Terminal Vegetable Market and Central Avenue and 8th Street and is apparently a contact man with incoming Japanese ships, the Japanese Consul and a great many higher-ups in Li'l Tokio. He is also noted with the included subjects.

9. Fujita, Masakatsu, 427 East 5th Street, owns the Brownstone and Oriental Hotels.

(Testimony of Elias M. Zacharias.)

Spends a great deal of money and contacts incoming Japanese boats.

10. Hosonuma, Ginzo—owner of the Yedoya, which has two grocery stores, one at 2837 West Olympic Blvd. These grocery stores are suspected of dispensing dope and also senders [372] of information. He has been noted with included subjects.

11. Kida, Masataro, 228 East 1st Street, owner of Chop Suey Restaurant. Spends a great deal of money and is a friend of the included subjects.

12. Nagasawa, Lieutenant Commander, IJN., relief for Ohtani, is being introduced in Li'l Tokio by a Mr. Kitagawa (florist). They seem very friendly and Kitagawa plans to leave for Japan sometime in July. Nagasawa is at present paying a great deal of attention and buying presents for Chieko, a waitress at the Ichifushi restaurant. Chieko is married, but her husband is in Fresno. It has been noted that Nagasawa every morning, picks up the Rafu Shimpo and turns immediately to the vegetable quotation section and spends considerable time reading it. Nagasawa is reported to be of a much more serious turn of mind than Ohtani. Does not indulge in the drinking parties as did Ohtani.

HENRI deB. CLAIBORNE.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (p)

505

13 June, 1938

Memo for DIO

Subject: Imamichi, Junzo.

1. Subject is Public Relations Director for the O. S. K. Line, and is reported to be staying at the Ambassador Hotel, Los Angeles, leaving next week for New Orleans via the Grand Canyon. He will continue his trip to Miami, New York, Buffalo, Chicago, St. Paul, Seattle, and San Francisco; in order to prepare the way for two new around the world passenger vessels due to be completed the summer of 1939. A check was made on the subject [373] and no one by that name was found to be at the Ambassador Hotel. A further check will be taken.

HENRI deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (q)

504

10 June 1938

Memo for DIO

Subject: Matsumoto (first name unknown)

Hirao, Jane.

Ohara, J.

1. Matsumoto and Hirao, who were the lieutenants of Yamamoto in the Tokio Club in Los Angeles, are said to be in hiding in Stockton, California. They have not returned to

(Testimony of Elias M. Zacharias.)

Japan as the Tokio Club had planned for them to do.

2. Ohara has been reported as leaving for Japan but it is believed that he also is probably in hiding with his two friends.

HENRI deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (r)

503

10 June 1938

Subject: Report on meeting of the Far East Research Institute in Los Angeles on 9 June 1938.

1. At a meeting of subject organization on June 9 1938 [374] at the Olympic Hotel, in the rooms of the Los Angeles Chamber of Commerce, Yozo Yoshino, author of a 240-page book on the 'Abacus,' gave a lecture on the abacus to about ten people, including the adviser, Katsumi Mukaeda. The reasons for such a small attendance were (1) a lack of interest on the part of the nisei to the abacus and (2) the fact that most of them went to see the Electrical Pageant at the Coliseum in Los Angeles on that date.

2. Among the nisei present were two Sugahara boys and Sabura Tani, a prominent Japanese American Citizens League member. Incidentally, Tani spent a number of years in Japan studying in Japanese schools. During

(Testimony of Elias M. Zacharias.)

the general conversation around the table before the lecture started, Tani mentioned to Mukaeda that he was going to ask Consul Ota for \$100 toward some sort of festival or convention fund, to which Mukaeda replied that Mr. Ota already had made out his check for that amount. During the rest of the conversation Mukaeda mentioned that there should be a closer union between issei and nisei and that they should get together often at joint meetings, to which Tani agreed.

3. The lecturer, Yozo Yoshino, was introduced by Mukaeda. It was revealed that Yoshino graduated from Wasoda University and was employed by NYK Line for a number of years. He gave his lecture in very halting English. His manner of delivery was uninteresting, unconvincing and uninstructive. The audience received the lecture with only mild curiosity and failed to grasp even the fundamentals of abacus operation. It is believed that Yoshino is not the type of man for this kind of lecture work and that he will not be successful, not only in American circles but among the Japanese as well. Yoshino will remain here until September and will give a course in abacus operation at one of the local Japanese language schools.

[375]

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (s)

495

7 June 1938

Memo for DIO ..

Subject: Issei-Nisei-Bussei.

1. As far as can be ascertained the present situation exists amongst the above mentioned groups. The issei apparently have a strong allegiance to Japan and are attempting to influence the other two groups into the same feelings. The nisei, during grammar school and high school seem to like their surroundings and are contented to be with the Americans in this country. However, upon entering college there is a gradual shift towards the issei ideas and quite a few definitely shift to a strong allegiance towards Japan. The bussei is the Young Men's Buddhist Association, which consists mainly of nisei. The JACL is mainly nisei and at the present time there are two groups in the JACL who are striving for control. The one group advocates a purely social organization, the other group advocates, strongly a civic organization with a closer union with the community in which they live. A third group of nisei, consisting of Hawaiian born Japanese, are attempting to organize and fight the JACL. The ideas of this group was to break the hold that certain questionable elements have in the JACL. These questionable elements are appar-

(Testimony of Elias M. Zacharias.)

ently closely allied to the Tokio Club gang. The Tokio Club at present seems to have hard sledding as they have cut down on free meals to the Japanese unemployed. In the past, the Tokio Club fed the unemployed twice a day, at present it is only once a day. The unemployed Japanese in Los Angeles consists of a few older people of issei who spend their days hanging around outside the Tokio Club. The Tokio Club has instructed the smaller Japanese gambling houses that the high limit of their games will be 50¢. Two Japanese gamblers were found gambling in a Chinese gambling club and were [376] thoroughly beaten up by the Tokio Club gang. This was not because they were in a Chinese establishment, but because the Tokio Club has instructed the Japanese gamblers that they can only gamble in the Club.

HENRI deB. CLATBORNE.

GOVERNMENT'S EXHIBIT No. 6 (t)

489

6 June 1938

Memo for DIO

Subject: Lieutenant Commander K. Nagasawa
and Lieutenant Commander I. Ohtani, IJN.

1. Nagasawa arrived at Olympic Hotel during the evening of Sunday, 30 May. It is definitely reported that he will relieve Ohtani.

(Testimony of Elias M. Zacharias.)

Ohtani's orders have not arrived as yet and his date of departure from here is not definitely known. Little information is available as yet on Nagasawa. According to informant, Nagasawa drinks very little, plays golf, and was out playing golf with Ohtani in the afternoon of Wednesday, 1 June.

HENRI deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (u)

482

3 June 1938

Memo for DIO

Subject: Japanese visitors to oil refineries.

[377]

1. Mr. A. Ogura and Mr. S. Moriya have requested the General Petroleum Corporation of California, permission to inspect their refineries in Los Angeles early next week.

HENRI deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (v)

480

2 June 1938

Memo for DIO

Subject: Moriya, Sensuki and Ogura, Akira,

Jr.—Return to Los Angeles of and probable date of departure of for Japan.

(Testimony of Elias M. Zacharias.)

References: (a) Our (ADIO) Serial No. 215
of 11 Mch 1938. (b) Com9 card #156 of
25 May 1938, subject Ogura, A.

Enclosures: (A) Six prints and two negatives
of (1) Iwakami, J., (2) Ogura, Akira and
(3) Moriya, Sensuke.

1. Sensuki Moriya, a chemical engineer and
Akira Ogura, Jr., a mechanical engineer, both
of the Ogura Oil Company of Japan, who have
been inspecting various oil refineries in the
East and purchasing equipment from the
Sharpless *Speciality* Company of Philadelphia
as mentioned in Reference (a), returned to Los
Angeles via Chicago on 27 May. They were
shown about the oil industry by Major E. H.
Polkinghorne of Los Angeles, an oil purchasing
agent or exporter, until Saturday evening, 29
May, when they went to San Francisco. They
will be back in Los Angeles next week, Tues-
day, June 7, for a week's tour of the Los
Angeles refineries if the companies give them
permission. They will then go to Fort San Luis
where they will sail on the Ogura tanker. [378]
Daisan Ogura Mart.

2. J. Iwakami is the Pacific Coast manager
of Asano Bussan Company.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (w)

479

2 June 1938

Memo for DIO

Subject: Arrival and departure of Japanese officers.

1. Captain Tatsumi (first name unknown) and Lieutenant Commander Nomura (first name unknown), Imperial Japanese Navy, passed through Los Angeles for San Francisco last week.

2. Colonel Yamauchi (first name unknown), aviator, Imperial Japanese Army, arrived Los Angeles 30 May, left for San Francisco, 1 June.

H. deB. CLAIBORNE.

GOVERNMENT'S EXHIBIT No. 6 (x)

477

1 June 1938

Subject: Arrival of Japanese officer.

1. Lieutenant Commander Ko Nagazawa or (Nagasaki) arrived this date in Los Angeles, stopping at the Olympic Hotel. He is the relief of Lieutenant Commander I. Ohtani, I. J. N.

[379]

GOVERNMENT'S EXHIBIT NO. 6 (y)

472

31 May 1938

Subject: Uchida, T.—Eng. Comdr., IJN.

Reference: (a) Com9 #955 of 25 May 1938.

(Testimony of Elias M. Zacharias.)

1. Subject individual arrived in Los Angeles 28 May and is staying at the Olympic Hotel. He is expected to depart Los Angeles for San Francisco on 29 May.

GOVERNMENT'S EXHIBIT NO. 6 (z)

469

31 May 1938

Subject: Ohtani, Inao—Lieutenant
Commander IJN—

1. Subject individual returned to Los Angeles from the East Friday, 27 May, at 6:00 P.M. He was driving a 1937 Chevrolet Coach, license D. C. 57-512.
-

GOVERNMENT'S EXHIBIT NO. 6 (aa)

466

27 May 1938

Subject: Lieutenant Commander Inao Ohtani

1. It is reported that on his return trip from the East subject individual will be driving back a new car for some person in Los Angeles. As previously reported, he is expected back in Los Angeles during the middle part of June. [380]

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (bb)

27 May 1938.

465

Subject: Hideo Futami

1. Subject individual arrived in Los Angeles on 24 May on the Grand Canyon Limited and left for San Francisco at 7:45 PM on 25 May. While here he stayed at Miyako Hotel.

GOVERNMENT'S EXHIBIT No. 6 (cc)

19 May 1938.

439

Memo for DIO

Subject: Nagai, Chieko (Dorothy).

1. Subject, who is the girl friend of Ohtani, has now moved out of the Olympic Hotel into the San Pedro Building across the street from the Olympic Hotel. Ohtani is expected in Los Angeles, from the east, about the middle of June and will depart shortly thereafter. His relief is not yet known in Los Angeles.

J. J. ROCHEFORT.

605

294

Mikhail Nicholas Gorin et al.

(Testimony of Elias M. Zacharias.)

GOVERNMENT'S EXHIBIT No. 6 (dd)

18 May 1938

435

Memo for DIO

Subject: Kono, T.—Engineer-Commander, IJN.

1. Subject individual arrived on 14 May and departed [381] for San Francisco on 17 May. While here he stayed at the Miyako Hotel.

J. J. ROCHEFORT. [382]

Government's Exhibit No. 3 as received in evidence over the objection of the defendants, as read to the jury and physically examined by them, is in words and figures as follows: [383]

295

C.O.P.Y

George Ohashi, of San Diego, is reported to have made a statement at a JACL meeting that he was not a fascist. Couple other members, Paul Nakadate and George Suzuki took exception to this remark and accused George Ohashi of being a communist and subsequently beat him up.

Ohashi and his wife own a beauty shop in San Diego which was found burglarized one day and the place searched.

Dr. M. M. Nakadate is dentist and is brother of Paul Nakadate.

Their father is Y. Nakadate who lives in San Diego and who is listed in our cards as "radical"- pro-Japanese". Dr. M. M. Nakadate is born in 1910; is member of United States Naval Reserve in dental corps and in 1935 did some training duty on board the USS Dorsey which is a destroyer. After completion of his sea duty he was attached to aviation unit of USNR, but because of his Japanese descent, it is evident, he is not being encouraged to continue his career with USNR.

Bert Simmons a civilian employee on North Island, San Diego, which island houses Naval aviation. He was reported as a communist.

The report, however, comes from a private watchman employed by Nick Harris Private Patrol. This watchman holds a dishonorable discharge from the Navy and it is believed that he made the report to ingratiate himself with the Navy. Report turned over to San Diego for further action.

Secretary of J.A.P. (?)

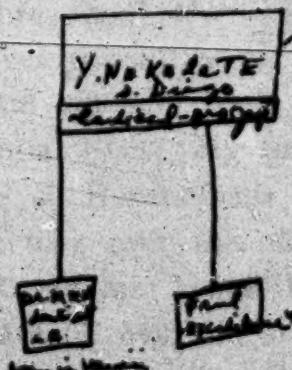
No. 13793 pg
UNITED STATES CIRCUIT COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED.

JUL 21 1939

AUL P. O'BRIEN.
CLERK

13793 pg
EXHIBIT 3
MARKED FEB 21 1939
by [Signature]
Deputy Clerk



No. 13793 pg
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H. deB. CLAIBORNE.

called as a witness on behalf of the Government,
being sworn, testified as follows:

Direct Examination

By Mr. Harrison:

I reside in the city of Los Angeles and am a Lieutenant in the United States Navy, attached to the Eleventh Naval District, acting as Assistant Naval Intelligence Officer with offices in San Pedro, California. I was commissioned as an officer in the United States Navy in June, 1926. I entered the United States Naval Academy at Annapolis, Maryland in June, 1922, and graduated June, 1926. I have been connected with the Naval Intelligence for approximately eight years. I came to Los Angeles area in May, 1938, from sea duty aboard the U. S. S. Richmond, based at San Diego. I was placed here as Assistant Director in charge of the office of District Intelligence Officer at San Pedro.

I arrived here about May 15, 1938, spent two weeks going over the duties of the office with my predecessor, and officially took over the office on the first of June, 1938. My predecessor was Lt. Commander J. J. Roachefort. Part of the personnel when I took over the office was defendant Salich. I first met him about the middle of May, 1938. When I took over the office I paid Salich the salary of \$250 a month, direct salary, \$83.33 expense account, with the proviso that any special

(Testimony of H. deB. Claiborne.)

presents or parties to be given would be taken care of by the office. He was paid by my check, cash checks.

I had a conversation with Mr. Salich relative to the manner in which he would be paid, which occurred approximately the 30th of June when I drew his first check. I am fairly certain Mr. Stanley was present.

Q. What was said relative to the method of payment at [384] that time?

To which question defendant Gorin objected, which objection was sustained.

The defendant Salich also objected upon the ground that it does not prove or disprove any allegation in the indictment. Objection overruled. Exception allowed.

In overruling the objection the Court further stated:

The Court: Yes. The Court desires to explain to counsel the basis of the ruling.

The question is apparently a follow-up of the question asked of the previous witness. It goes as to whether or no this defendant had knowledge of the confidential nature of certain things, sufficient so that, as a reasonable man, he should have anticipated the normal result of his acts. It is wholly upon that theory that this testimony is being admitted, to show one of the elements of intent.

The Witness: I do not recall the exact words,

(Testimony of H. deB. Claiborne.)

but, in substance, I stated that the object of this was not to connect the investigators directly with the office or with my name. [385]

(Witness continues) The funds I paid him with were received from Commander Zacharias in San Diego. There was a file in the San Pedro office designated as the personal file of Salich, which I saw and examined. This was sometime between the middle of May and the first of June when I went through most of the personal files in the office, amongst these was a personal file of Salich and I read this file. Thereafter I never saw that file again. I began a search for that file toward the end of October, 1938, and searched all places in which I thought it was possible for this file to be misplaced in the office. About the middle of December, 1938, I ordered a further search to be made by my office force for not only the file but for the possibility that the contents of that file could have been shifted to another file. It was at the beginning of February, 1939, that this thorough search was completed, and no trace of the file or its contents were found.

I was present at a conversation where the defendant Salich was also present, and where the confidential nature of the work was mentioned. That was at the meetings of the group held at San Pedro, and I recall a particular meeting some time in the summer of 1938. There were present Commander

(Testimony of H. deB. Claiborne.)

Zacharias, Mr. Stanley, Mr. Salich and several United States Naval Reserve Officers.

Q. Now what did you, if anything, say at that time relative to the confidential nature of the work?

Mr. Harrison: I think it would be proper to limit this to the defendant Salich, if the Court please.

The Court: Gentlemen, you are to ignore any part of this conversation so far as it affects the defendants Gorin. You are instructed to ignore it.

Mr. Stone: May the record show the usual objection with regard to these comments in regard to the confidential nature of the work, your Honor?

[386]

The Court: Yes, and the objection is overruled and an exception allowed.

Mr. Stone: I don't like to keep objecting to this, if the Court please, and if it may be understood when this testimony comes up in the future, as it has in the past, it may be received subject to the objection, and an exception? Is that agreeable to the Court?

The Court: That is your privilege and your obligation.

In a case as complicated as this is, with three defendants and three counsel, I prefer to have the objections made. You may make them very succinctly and the Court will rule on each objection.

A. I particularly recall reading several paragraphs from a book called "The Reserve Officers

(Testimony of H. deB. Claiborne.)

Manual." One of these paragraphs warned any officer from writing or publishing anything concerning the Navy without first submitting it to the Navy Department.

At the end of this paragraph was a reference to the United States Navy Regulations, paragraph 113. That reference was read, but the paragraph of the United States Navy Regulations itself was not read.

Q. Was anything else said about the confidential nature of the work by you at that time when Salich was present?

A. After that paragraph from the Reserve Officers Manual was read, Commander Zacharias took up the point of the confidential nature of the work.

Q. And that is what was covered by his testimony in this case?

A. That is correct.

Q. Is that the only occasion where you were present in which there was any discussion concerning the confidential nature of the work of the Naval Intelligence at which Salich was present?

A. No. [387]

Q. When did such an occurrence—

A. (Interrupting) At practically every meeting of the Intelligence group some mention was made of the confidential nature of the work.

(Witness continues) The specific duties of the defendant Salich had been given to him before I

(Testimony of H. deB. Claiborne.)
took over the office. I gave him specific instructions in connection with each case to be investigated. And, further, in the office occasionally discussions would arise as to information to be collected and also at one or two of the meetings of the Intelligence group I specifically requested anyone coming upon information concerning Naval Intelligence to turn that information in to me. I specifically stressed that it would not be necessary for me to give assignments to each man but that if they ran across anything, that they were to be sure to let me have it. I remember telling both Mr. Salich and Mr. Stanley when they were present in my office some time in the late summer or early fall that the information in a particular instance was insufficient and that I desired to get together more information if possible. A discussion arose, as I remember, as to, you might say, the means of obtaining this information. And I further recall that I mentioned in general the information that I wanted in this particular case.

Q. Lieutenant, just before the adjournment, I had asked you some questions relative to any specific instructions that you had given Salich relative to his work, and would ask you at this time if you recall any instructions that you gave him as to any particular information that you asked him to obtain, or any particular matter you asked him to investigate.

(Testimony of H. deB. Claiborne.)

The Court: Do I understand that this is being offered as against the defendants Gorin, or only as against the defendant Salich? [388]

Mr. Harrison: Only as to the defendant Salich, if the Court please.

The Court: The jury is instructed to disregard this conversation that is about to be revealed, insofar as it concerns the Gorins, as it is not being introduced as applicable to the Gorins.

Mr. Pacht: May I object to it further, if the Court please, upon this ground: that notwithstanding the statement of the District Attorney, that it is not being introduced as against the defendants Gorin, the fact that it is being testified to by the witness in itself, the evidence is being heard by the jury, and that it is impossible for the jury to eliminate from their minds something that they have actually heard.

The Court: The objection is overruled.

Mr. Pacht: Exception.

The Court: Yes.

Mr. Stone: May the record show an objection on the part of the defendant Hafis Salich to the materiality of this testimony?

The Court: Yes.

Mr. Stone: Exception.

The Court: The objection will be overruled, and an exception allowed.

A. In this specific case which I recalled, as I stated, I could not recall the exact case in question,

(Testimony of H. deB. Claiborne.)

but it was concerning either espionage, that is, probable espionage, possible sabotage, or probable subversive activities, and the investigators were informed that more information was needed in this particular case.

Q. What was said as to whether or not they were to bring the information to you for evaluation, or whether they were to be the judges of whether it should be reported to you?

A. In no case were the investigators ever told to evaluate information themselves. [389]

The instructions given them from time to time was definitely that all information was to be brought to the office.

(Witness continues) The information contained in Government's Exhibit No. 6 (b), being Report No. 560, was not furnished me by Mr. Salich.

Mr. Harrison: If the Court will permit, in order that I may comply as gracefully as possible with the Court's ruling, may I ask for instructions from the Court?

The Court: You may.

Mr. Harrison: I would like to ascertain at this time if the Court will permit me to examine this witness relative to the individuals that are involved in the reports and their connection with the United States Navy, and wherein it depicts the national defense.

The Court: That is a very broad question and one which, I think, should be presented, and the

(Testimony of H. deB. Claiborne.)

application to each of the defendants thoroughly understood, and one which, I think, should be presented outside of the hearing of the jury. If counsel have no objection, we will simply excuse the jury and go into chambers.

Mr. Packt: I wish to make an assignment of misconduct, prejudicial misconduct, based upon the statement of the District Attorney as to what he wanted instructions on from the Court, and the inference arising from his statement that anything in these reports affects the national defense.

The Court: Gentlemen of the jury, you are instructed to disregard the statement of the District Attorney. As I have heretofore indicated to you, statements of counsel in the case are no part of the evidence, and you are not to consider them. You are not to consider any evidence which has been offered and rejected or any implications from that offer, or to gather any inference, or to take any inference from it; nor are you to consider any evidence which has [390] been introduced and has been stricken. You will be fully instructed in that regard, and in all of those regards, at a later time before you retire to deliberate. I feel sure that no element of prejudice has arisen by virtue of request for instructions of the Court, and the motion will be denied.

(Witness continues) I do not recall any occasion when Salich reported to me that he had contacted Gorin, nor do I recall that he ever made any report to me that he had obtained any infor-

(Testimony of H. deB. Claiborne.)

mation from Gorin. Where my name appears at the bottom of those exhibits, it indicates that the report was made up by me. The report represents a compilation of the results of other investigations that have been turned in to me.

Whereupon the witness was temporarily excused from the stand and the witness

ELIAS M. ZACHARIAS

was recalled and further testified as follows:

Recross Examination

By Mr. Pacht:

Q. Commander Zacharias, who determines whether or not information gathered by investigators operating out of the office of the Naval Intelligence is confidential?

A. The first officer of the Navy through whose hands that passes.

Q. In this case that would have been either Lieutenant Roachefort or Lieutenant Claiborne, is that right? A. That is right.

Q. Is it a fact, or is it not a fact that the person who gathers the information, such as, for instance, Mr. Salich or Mr. Stanley, determines whether or not it is confidential?

A. He does not.

Q. The designation of the material as confidential by Lieutenant Claiborne or Lieutenant Roachefort is not final, is it? [391]

(Testimony of Elias W. Zacharias.)

A. It is not.

Q. You, as the Commanding Officer, reserve to yourself and to your unlimited discretion as to whether or not the information is confidential, is that right?

A. The answer is affirmative until it passes beyond me.

Q. Commander Zacharias, perhaps you can assist us in this matter: what is the correct name and designation of this office in which Mr. Salich worked?

A. (Pause)

Q. In other words, what is the correct name of the Service which gathered this information?

A. It is a branch office of the District Intelligence Office.

Q. Is it not designated in the Navy regulations as Office of Navy Intelligence?

A. It is not.

Q. Is it under the command of the Director of Naval Intelligence?

A. There is a dual control over the District Intelligence Officers and their branches, one being the Commandant of the Naval District, who is responsible for the organization and maintenance of the Intelligence Service within his District, and the Director of Naval Intelligence, acting for the Chief of Naval Operations, in conducting the Intelligence Service.

Q. His office is in Washington?

(Testimony of Elias W. Zacharias.)

A. Washington, D. C.

The following conference was held between Court and counsel in chambers; all counsel being present as well as Commander Zacharias and Lt. Claiborne:

The Court: Show me your subpoena.

Mr. Stone: The original is in the Clerk's Office. I [392] think the copy will be sufficient.

Lieutenant Claiborne: This is the one I received.

(The document referred to was passed to the Court.)

The Court: Yes. That is addressed to Henri deB. Claiborne, court room.

You are requested to appear personally, "and bring with you all reports and files furnished to Naval Intelligence Service by Hafis Salich; all reports and files of Naval Intelligence Service concerning Mikhail Nicholas Gorin, Natasha Gorin; the activities of Russian engineers at Douglas Aircraft Co.; the activities of one Kaganovich, Commissar for Heavy Industry in Los Angeles, all information concerning Russian long-distance "flyers," and so forth, covering about all the Russian activities in America.

Mr. Stone: All those in Los Angeles, of which Hafis Salich investigated.

The Court: Lieutenant Claiborne, you are Henri deB. Claiborne who received a subpoena in this case, are you?

Lieutenant Claiborne: I am.

The Court: Are you familiar with the material which is indicated in this subpoena and which you are requested to produce in Court?

Lieutenant Claiborne: In general, I am.

The Court: Will you read it over in particular before I ask you another question.

Lieutenant Claiborne (Examining document).
All reports and files—

The Court (Interrupting): Read it over to yourself. You don't need to read it aloud.

Do you know what you are asked to bring into court? Are you familiar with that?

Lieutenant Claiborne: I am.

The Court: You are [393]

Lieutenant Claiborne: Yes.

The Court: Now, are you the custodian—have you in your possession all of the information indicated on that subpoena?

Lieutenant Claiborne: I believe I have.

The Court: All of it?

Lieutenant Claiborne: Yes, sir.

The Court: Have you received—

Mr. Harrison (Interrupting): May I interrupt there? Do I understand that you say you have physical custody of that, being in charge of the Naval Intelligence Office at San Pedro, when you say you have possession of it?

Lieutenant Claiborne: I have possession of this matter, but it is in the custody of the Secretary of

the Navy. Or, rather, the other way around. It is in my custody, but in the possession of the Secretary of the Navy.

The Court: Have you received any orders from the Secretary of the Navy?

Lieutenant Claiborne: I have.

The Court: What are they?

Lieutenant Claiborne: I have received from the Secretary of the Navy, through the Commandant of the Eleventh Naval District, my direct superior, instructions to appear without records in answer to subpoena, and when called to produce records or testimony, inform the Court that I am prohibited from testifying and disclosing contents of records under instructions of the Secretary of the Navy, Appendix Cast 15 Naval Courts and Boards, Article 113, Navy Regulations, as disclosure would be detrimental to public interest. I am directed that in the event the Court should overrule claim of privilege, I shall refuse to testify concerning or disclose any information from such records, in such event communicate promptly with Navy Department. [394]

The Court: Have you also received a request from the Government to produce documents in connection with this case?

Lieutenant Claiborne: I have received a verbal request from the United States Attorney.

The Court: And have you refused to produce the records?

Lieutenant Claiborne: Other than the records which Salich picked out in the Federal Bureau of Investigation I have refused such request.

The Court: Those that are in court now under the numbers of Exhibits 5 and 6?

Lieutenant Claiborne: Yes.

Mr. Harrison: May I ask a question?

The Court: Yes.

Mr. Harrison: Did not my office request to produce additional documents and records for the United States in this trial?

Lieutenant Claiborne: Your office did.

The Court: And those documents were parts that the Secretary of the Navy instructed you not to deliver to us?

Lieutenant Claiborne: Those documents are part of the records in my office.

The Court: The ruling of the Court will be to decline to compel the production of the instruments in the event that the man subpoenaed, Lieutenant Henri deB. Claiborne, U. S. N., refuses, on instructions from the Navy, and his superior officers, to produce.

An exception will be allowed as to the defendant Salich.

H. deB. CLAIBORNE,

a witness for the Government, resumed the stand and testified as follows:

Cross Examination

By Mr. Stone:

I am acquainted with a certain file in the United States Naval Intelligence Service Office down in San Pedro dated June 15th [395] and dealing with the activities of the Russian engineers at Douglas Aircraft. I believe Mr. Salich turned that report in to me. To the best of my recollection he did not, either during the time he was working on that matter, or at the time he turned in the report, inform me that he had received that information from either Mr. or Mrs. Gorin. I do not believe that it would be possible that I had forgotten it. The only person that I can recollect ever having seen files in my office, other than the Naval Intelligence Service, were agents of the Federal Bureau of Investigation when they were on a case directly concerned with my office. There was one occasion prior to the 10th day of October, 1938. I might qualify my answer further by saying that would include the Military Intelligence Department. Other than members of the Naval Intelligence Service, the Military Intelligence Service, and the Federal Bureau of Investigation, I cannot recollect anyone else who has been permitted to see those files.

H. L. STANLEY,

a witness on behalf of the Government, recalled and duly sworn, testified as follows:

Cross Examination

By Mr. Pacht:

When I testified that Salich and I drove to Gorin's house, following the time in July of 1937 when the Russian flyers flew from Russia to Oakland non-stop and he asked me if I would like to see the Russian flyers, we drove to a house at 451 South Ardmore. It might be 461 South Ardmore. It was on the west side of the street between Fourth and Fifth, and was an odd number.

Cross Examination

By Mr. Stone:

I first knew that Salich was under suspicion by his superior officers in connection with his contact with Gorin in February or March of 1938. It was several days previous to the conversation to [396] which I testified, between myself, Commander Roachefort and Mr. Salich. I first became acquainted with the fact that the investigation was under way which led to Mr. Salich's arrest December 10th, about the third Friday in November. It was in November of 1938 that Lt. Claiborne showed me the paper which has been introduced in evidence as Government's Exhibit No. 3. I remember a number of conversations in which Mr. Gorin's name was mentioned by Salich and I know

(Testimony of H. L. Stanley.)

that sometimes Salich would call Gorin on the phone in my presence. On numerous occasions I urged Salich to take me to meet Mr. Gorin. On other occasions Salich told me that he would like to make a trip to Russia in 1940 and I said "Why don't you contact Gorin and see if he will give you a trip, that may make it more reasonable for you to travel that way." At the time Salich and Gorin called each other on the telephone no comment was made nor was comment made thereafter as to what was said in those conversations. Sometimes Salich would call Gorin from his apartment at nine or ten in the morning and I have listened to conversations in there at two in the afternoon. These occurred I would say between March and about May 15th, 1938. I do not remember any after that time.

I did not read Mr. Dierst's notes as to his conversation with Mr. Salich before coming to court. On the night of December 12th, I believe Mr. Hanson called me and asked me to come to the F. B. I. office. It was about ten o'clock at night. I went there and met Mr. Salich, and he told me that he had made a statement to Mr. Dierst or Mr. Hanson, I don't recall which. He told me what the statement was about, but he didn't tell me what was in it. Neither did Mr. Dierst nor Mr. Hanson told me what was in it. I never read the statement prior to my testimony in this case. I fix the fact

(Testimony of H. L. Stanley.)

of my conversation with Mr. Salich concerning his dinner with Gorin at Perino's with his telling me what a nice place it was, they served nice food. This took place the latter part of February or the first [397] part of March. He did not say the Turf Club. There may have been conversation at Mr. Salich's apartment in which Mr. Salich, Miss Olga Bryson and I were present at which the name of Perino's restaurant was mentioned. I don't recall it. I don't recall the comment being made that Mr. Salich had taken a blonde to Perino's for lunch, and that I said "Never mind, Olga. If your boy friend won't take you there, I will." I have heard Mr. Salich refer to Mr. Aliavdin.

The Court: Mr. Stanley you answered a question by counsel about getting a passage or a ticket to Russia from Mr. Gorin. What did you mean by that? Did you mean that he was to get a free trip?

The Witness: No, sir.

The Court: Pardon me?

The Witness: No, sir. He runs the Intourist Bureau, so I had been told by Mr. Salich—

The Court (interrupting): You mean Mr. Gorin?

The Witness: Mr. Gorin runs the Intourist Bureau, and I thought that Mr. Salich may save some money and get the ticket at a discount through his friendship with Mr. Gorin. That is what I talked to Mr. Salich about.

Whereupon it was stipulated that on the day Mr. Dierst referred to when he testified as to certain

telephone conversations when Mr. Gorin called Washington that the Russian Ambassador was not in the United States, and that the Charge d'Affaires, Mr. Oumansky, was in charge of the embassy at Washington.

WILLIAM S. MAXWELL,

a witness on behalf of the Government, was recalled and testified further as follows:

Cross Examination

By Mr. Pacht:

On the occasion when I met defendant Gorin in front of [398] the Chapman Building, after I met him I went upstairs with him to the office of Intourist. Upon that occasion I carried on my conversation with him in English. I was born in Dubua Volunskaya Gubernya. It is close to Warsaw where I was born. I left there the early part of 1914. I was born in 1900 and was fourteen years old when I left Russia. The last time I left Russia was the latter part of 1919. When I enlisted in the Navy I was stationed on the U. S. S. Brooklyn and was stationed in Russia, and I was on that ship all of that time. I was interpreter for Admiral Knight, who was Commander-in-chief of the Asiatic Fleet. I had what you might call a free gangway. The language which was spoken in this little town near Warsaw was not principally Polish; it was

(Testimony of William S. Maxwell.)

Russian. They spoke Polish, yes, and German. The official language was Russian. On the occasion of my talking to Mr. Gorin at this meeting on January 3, 1939, I talked to him in English. He started the conversation in English and I had no reason to change it and continued the conversation in English.

The Government rested its case.

The defendant Natasha Gorin then made a motion for the Court to direct and instruct the jury to bring in a verdict of acquittal in her favor upon each and all of the counts of the indictment, upon grounds stated in support of said motion. Said motion was granted as to the first count and the second count of said indictment, and was denied as to the third count of the indictment.

Whereupon the defendant Gorin moved said Court for a directed verdict in his favor upon each and all of the counts of the indictment, said motion and the grounds therefor being in words and figures as follows:

(MOTION OF DEFENDANT MIKHAIL NICHOLAS GORIN FOR DIRECTED VERDICT)

The defendant Mikhail Nicholas Gorin moves the Court to direct and instruct a verdict of acquittal in his favor upon each [399] and all counts of the indictment, upon the following grounds:

First Count

As to the first count of said indictment, said defendant alleges and states as to his grounds for said directed verdict of acquittal:

1. That the first count of said indictment fails to state facts sufficient to constitute a penal offense against the defendant Mikhail Nicholas Gorin.
2. That the evidence introduced on behalf of the Government on the first count of said indictment is insufficient to support and sustain the conviction of said defendant Mikhail Nicholas Gorin.
3. That the evidence fails to disclose that the defendant Mikhail Nicholas Gorin copied or took or made or obtained any of the reports referred to or described in said first count of the indictment, or any report or writing pertaining to or concerning various and numerous individuals under suspicion or observance or surveillance or investigation, either as belonging to or contained in the United States Naval Intelligence files and reports of San Pedro, California.
4. That the evidence fails to show the doing of any act whatever on the part of the defendant Mikhail Nicholas Gorin, as alleged in the first count of said indictment, for the purpose of obtaining information respecting the national defense, either as described in said first count of the indictment or otherwise.
5. The evidence fails to disclose that the defendant Mikhail Nicholas Gorin ever did any act with

the intent or reason to believe that thereby information respecting the national defense could be obtained and used to the injury of the United States or to the advantage of the Union of Soviet Socialist Republics.

6. That the evidence fails to disclose and prove that any of the reports in said first count referred to and described, constituted, or was connected with, or in any wise related to, the national defense of the United States. [400]

Second Count

As to the second count of said indictment, said defendant alleges and states as his grounds for said directed verdict of acquittal:

1. That the said second count of said indictment fails to state facts sufficient to constitute a penal offense against the defendant Mikhail Nicholas Gorin.

2. That the evidence introduced on behalf of the Government in the second count is insufficient to support and sustain the conviction of said defendant Mikhail Nicholas Gorin.

3. That the evidence fails to disclose that the defendant Mikhail Nicholas Gorin communicated or delivered or transmitted to a representative, officer, agent, employee, subject or citizen of the Union of Soviet Socialist Republics, any document, writing, note, instrument or information relating to the national defense or any of the confidential

reports of the investigators of the United States Naval Intelligence located in the office of the United States Naval Intelligence, at San Pedro, California, or any of the reports referred to or described in the second count of the indictment.

4. That the evidence fails to disclose or prove the doing of any act whatsoever on the part of the defendant Mikhail Nicholas Gorin as alleged in the second count of said indictment, for the purpose of communicating, delivering, or transmitting to any representative, officer, agent, employee, subject or citizen of the Union of Soviet Socialist Republics, or to any person, any information whatsoever or any writing, note or instrument relating to the national defense.

Third Count

As to the third count of said indictment, said defendant alleges and states as his grounds for said directed verdict of acquittal:

1. That the third count of said indictment fails to state [401] facts sufficient to constitute a penal offense against the defendant Mikhail Nicholas Gorin.
2. That the evidence introduced on behalf of the Government on the third count of said indictment is insufficient to support and sustain the conviction of said defendant Mikhail Nicholas Gorin.
3. That the evidence fails to show or disclose that the defendant Mikhail Nicholas Gorin con-

spired, combined or confederated or agreed with the other defendants named in said indictments, or any other persons, to permit an offense against the United States of America, as in said third count of said indictment alleged.

4. That the evidence fails to disclose or show that the said defendant Mikhail Nicholas Gorin conspired, combined, confederated or agreed with the other defendants in said third count of the indictment named, or with any other persons, to communicate, deliver, transmit or attempt to communicate, deliver, or transmit to the Union of Soviet Socialist Republics, or to a representative, officer, agent, employee, subject or citizen thereof, or any other person, any document, writing, plan, note, instrument or information relating to the national defense, either as described in said third count of the indictment or otherwise, with intent or reason to believe that it was to be used to the injury of the United States or to the advantage of said Union of Soviet Socialist Republics.

5. That the evidence fails to disclose or show the doing or commission of any overt act charged, related or set up in said third count of the indictment, or any act whatsoever for the purpose or to the end of communicating, delivering, transmitting or attempting to communicate, deliver or transmit to the Union of Soviet Socialist Republics, or to any representative, officer, employee, subject or citizen thereof, any document, writing, plan, note,

instrument, or information relating to the national defense.

6. That the evidence fails to disclose or show that the [402] defendant, Mikhail Nicholas Gorin ever did any act of any kind in furtherance of any conspiracy, combination, confederation or agreement with the other defendants in said action, or with any other person, to commit an offense against the United States of America, as in said third count of said indictment alleged.

7. That the evidence fails to disclose or show that the defendant Mikhail Nicholas Gorin ever did any act whatsoever with the intent or reason to believe that the information relating to the national defense, either as contained in said reports in said third count of the indictment described or otherwise, was to be used to the injury of the United States or to the advantage of the Union of Soviet Socialist Republics.

Said motion of the defendant Mikhail Nicholas Gorin to direct a verdict of acquittal was argued to the Court and said motion was denied. Exception allowed.

Whereupon the defendant Salich made a motion for a directed verdict, which motion was in words and figures as follows:

(MOTION FOR DIRECTED VERDICT)

The defendant Hafis Salich respectfully moves this Honorable Court to direct a verdict of acquittal in favor of the defendant Hafis Salich upon each

and every count of the indictment, and upon the following grounds and each of them:

First Count

- (1) The first count of the indictment fails to state facts sufficient to constitute a penal offense by the defendant Hafis Salich against the United States.
- (2) The evidence introduced on behalf of the Government on the first count of the indictment is insufficient to support a conviction of the defendant Hafis Salich.
- (3) The evidence introduced by the Government fails to [403] show that the information obtained concerns or affects the national defense.
- (4) The evidence fails to show that the defendant Hafis Salich obtained the said information with intent or reason to believe that it was to be used to the injury of the United States or the advantage of the Union of Soviet Socialist Republics.
- (5) The evidence fails to show that the defendant Hafis Salich obtained the said information with the purpose of obtaining information affecting the national defense.

Second Count

- (1) The second count of the indictment fails to state facts sufficient to constitute a penal offense by the defendant Hafis Salich against the United States.
- (2) The evidence introduced on behalf of the Government on the second count of the indictment

is insufficient to support a conviction of the defendant Hafis Salich.

(3) The evidence introduced by the Government fails to show that the information transmitted and communicated concerns or affects the national defense.

(4) The evidence fails to show that the defendant Hafis Salich transmitted and communicated the said information with intent or reason to believe that it was to be used to the injury of the United States or the advantage of the Union of Soviet Socialist Republics.

(5) The evidence fails to show that the defendant Hafis Salich transmitted and communicated the said information with the purpose of transmitting and communicating information affecting the national defense.

Third Count

(1) The third count of the indictment does not state facts sufficient to constitute a penal offense against the United States by the defendant Hafis Salich. [404]

(2) The evidence introduced on behalf of the Government is insufficient to support a conviction of the defendant Hafis Salich on the third count of the indictment.

(3) The evidence fails to show an agreement or conspiracy between Hafis Salich, Mikhail Nicholas Gorin, and Natasha Gorin to communicate or trans-

mit, one to the other, information which affects the national defense.

(4) The evidence fails to show that the defendants Hafis Salich, Mikhail Nicholas Gorin, and Natasha Gorin conspired to transmit or communicate information, one to the other, with intent or reason to believe that the said information was to be used to the injury of the United States or the advantage of the Union of Soviet Socialist Republics.

(5) The overt acts alleged in the indictment are not shown by the evidence to have been committed in furtherance of the alleged conspiracy.

Said motion was by the Court overruled. Exception allowed.

Mr. Stone, attorney for the defendant Salich, then made a statement on behalf of said defendant of what the evidence to be offered in his behalf would show.

VELMA I. SALICH,

called as a witness on behalf of the defendant Salich, being sworn, testified as follows:

Direct Examination

By Mr. Stone:

I am the wife of defendant Salich, having married him May 7, 1932, in Reno, Nevada. We lived in Berkeley from that time up to 1936. I remember the 15th day of August, 1936, which was the day Mr. Salich started his vacation—his last day

(Testimony of Velma I. Salich.)
in the service of the Berkeley Police Department. On the 16th of August we came to Los Angeles where we stayed overnight. On Monday morning we went to San Diego where we registered and Mr. Salich left me. He said he had appointment with Commander Davis in San Diego, and [405] he left me at two o'clock in the afternoon. We stayed in San Diego until Wednesday morning, which was August 19th. When Mr. Salich and I left San Diego together, we went directly to San Pedro, to the Customs Building. Commander Davis was not with us. I did not see him at any time that day. I have never met him. Mr. Salich and I are separated since January 8, 1938. We made an oral agreement at that time that he was to pay me \$125 a month; \$95 actual cash, and \$30 a month payment on my automobile. Out of that \$95 Mr. Salich was to pay my gasoline bill and the balance was to be paid on the first and the fifteenth, divided. We had an arrangement that these payments were to continue until the first of the year. A short time after that it was extended to the first of February, 1938, inclusive. Thereafter we had a written property settlement agreement. The document you show me is the property agreement between Mr. Salich and myself, and was executed November 28, 1938. At that time I received \$250 in currency, and \$250 in a check.

Thereupon the document referred to was marked "Defendant Salich's Exhibit A for identification."

Cross Examination

By Mr. Harrison:

The \$250 in currency was in five \$50 bills which I received from Mr. Salich indirectly, they were handled through my attorney.

OLGA LOUISE BRYSON,

called as a witness on behalf of the defendant Salich, being sworn, testified as follows:

Direct Examination

By Mr. Stone:

I am acquainted with the defendant Salich. I recall an occasion in his apartment when he and Mr. Stanley were present, when there was a conversation concerning a certain luncheon Mr. Salich had with Mr. Gorin. That was the latter part of September, 1938. [406] We had been laughing about this luncheon engagement at Perino's because Mr. Salich was—well, it was quite a nice place, and I was put out because I didn't go. I asked Mr. Stanley—or I asked Mr. Salich if it would be possible for me to meet Mr. Gorin so I could go some time on one of these days.

Mr. Stanley said that they wouldn't take me because there was probably some blonde along, but for me not to worry, that he would take me out some day.

(Testimony of Olga Louise Bryson.)

Cross Examination

By Mr. Neukom:

I first met Mr. Salich the latter part of January, 1938. A friend of ours by the name of Jim, I don't remember his last name, introduced him to me in a cocktail bar in Glendale. After that, on several occasions, I had been to his apartment. I knew that he was married, and continued to go with him from time to time, and have frequently gone out to dinner with him. I have had a very close association with him, and have been in court practically every day of the trial.

I have never been with Mr. Salich when he talked with Mr. Gorin. I never discussed Mr. Gorin with him. I knew of this luncheon engagement and at one time Mr. Salich, I believe, had cocktails with Mr. Gorin. We often laughed about whether I would like Russia and whether we would take a trip there some time in our lives. We were not planning such a thing. Whenever we had such a conversation Mr. Gorin's name was not always brought into it. Mr. Salich didn't want to return to Russia. He might have wanted to visit there a time, as anybody would want to visit the place of their birth, but he didn't want to live there.

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